



Crl.O.P.No.21324 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

**Crl.OP.No.21324 of 2022**

Shanmugam

... Petitioner

Vs.

The State represented by,  
The Inspector of Police,  
All Women Police Station,  
Pennagaram.  
Crime No.07 of 2022

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleased to enlarge the petitioner on bail pending investigation in Crime No.07  
of 2022 on the file of the respondent Police.

For Petitioner : Mr.G.Kesavan

For Respondent : Mr.C.E.Pratap  
Government Advocate (Crl. Side)



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## **ORDER**

The petitioner, who was arrested and remanded to judicial custody on 09.07.2022 for the offences punishable under Section 366 of IPC and Section 9 of Child Marriage Act, 2006 and Section 5(1) r/w 6 of POCSO Act, 2012, in Crime No.07 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had kidnapped the minor daughter of the defacto complainant from her lawful guardianship and had committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been given as against him. He would further submit it is a case of love affair and the investigation in this case has been completed and the final report has also been filed and the case has been taken up on file in Spl.S.C.No.51 of 2022 on the file of the learned Mahila Court, Dharmapuri. He would also submit that the petitioner also understands that the respondent has recorded the statement from the



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victim girl under Section 164 of Cr.P.C., wherein, she had stated that she had informed the petitioner that if he does not come and take her away, she will commit suicide and she has also informed that she has completed the age of 18 years and believing the same, the petitioner had taken her away. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that this is a third occasion, where the petitioner had kidnapped the victim girl. In respect of the two earlier occurrence, one during the year 2019, a case in Crime No.07 of 2020 and another case during the year 2020, a case in Crime No.09 of 2021 have been registered by the respondent in respect of the very same allegations. He would also submit that the investigation has been completed and the final report has also been filed and the case has been taken up on file in Spl.S.C.No.51 of 2022 on the file of the learned Mahila Court, Dharmapuri. Therefore, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the CD file including



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the statement recorded from the victim girl under Section 164 of Cr.P.C.

6. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and also taking note of the fact that a perusal of 164 of Cr.P.C., statement shows that only on the instance of the victim girl that she will commit suicide, the petitioner had taken her away from her lawful guardianship, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned District Sessions Judge, Fast Track Mahila Court, Dharmapuri** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

**[b] the petitioner shall report before the**



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**District Sessions Judge, Fast Track Mahila Court,  
Dharmapuri on all working days at 10.30 a.m., without  
fail, until further orders;**

[c] the petitioner shall not abscond either during  
investigation or trial;

[d] the petitioner shall not tamper with evidence  
or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions,  
the learned Magistrate/Trial Court is entitled to take  
appropriate action against the petitioner in accordance with  
law as if the conditions have been imposed and the  
petitioner released on bail by the learned Magistrate/Trial  
Court himself as laid down by the Hon'ble Supreme Court  
in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

[f] If the accused thereafter abscond, a fresh FIR  
can be registered under Section 229A IPC.

**12.09.2022**

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**A.D.JAGADISH CHANDIRA., J.**

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To

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1. The District Sessions Judge, Fast Track Mahila Court,  
Dharmapuri.
2. The Inspector of Police,  
All Women Police Station,  
Pennagaram.
3. The Superintendent,  
District Jail,  
Dharmapuri.
4. The Public Prosecutor,  
High Court of Madras.

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