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Crl.O.P.No.21691 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.21691 of 2022

Aravind

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-35, All Women's Police Station,
Tambaram, Chennai - 600 045.
Crime No.26 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation Crime No.26
of 2022 on the file of the respondent police, W-35, All Women's Police
Station, Tambaram.

For Petitioner : Mr.B.Kalaiarasan

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 08.08.2022 for the offences punishable under Section 366(A) of IPC and Section 6 of POCSO Act, 2012, in Crime No.26 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the minor victim girl from the lawful custody of her mother and married her and committed penetrative sexual assault on her. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl developed a relationship and since, it was known to the parents of the victim, they had arranged for marriage with someone against her choice and thereby, the victim had compelled the petitioner to take her away and get married, stating that she has completed 18 years of age. Believing that she has completed 18 years of age, the petitioner had taken her and got married to her and also committed sexual intercourse with her. He would also submit that it was consensual relationship and the



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matter has been compromised and the petitioner is also ready to marry the victim girl and they are ready to file a quash petition on the ground of compromise. He would also submit that the date of birth of the victim girl is 05.09.2004 and therefore, as on date, she has attained majority. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner induced the minor girl and taken her out from her lawful guardianship and married her and committed penetrative sexual assault on her. He would further submit that major part of the investigation in respect of the petitioner is over and the medical and scientific examination in respect of the petitioner is also over. However, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the CD file including the statement recorded from the victim girl under Section 164 of Cr.P.C.



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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 the statement recorded from the victim girl under Section 164 of Cr.P.C., 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 Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu** 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 respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders;



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[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.

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A.D.JAGADISH CHANDIRA., J.

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To

1. The Special Court for Exclusive Trial of Cases under POCSO Act,
Chengalpattu.
2. The Inspector of Police,
W-35, All Women's Police Station,
Tambaram, Chennai - 600 045.
3. The Superintendent,
Sub Jail,
Chengalpattu.
4. The Public Prosecutor,
High Court of Madras.

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