



Crl.O.P.No.22416 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2022

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

Crl.O.P.No.22416 of 2022

Pachamuthu

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
AWPS, Ariyalur Police Station,
Ariyalur District.
Crime No.25 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.25
of 2022 on the file of the respondent Police.

For Petitioner : Mr.D.Padmanabhan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



Crl.O.P.No.22416 of 2022

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ORDER

The petitioner, who was arrested and remanded to judicial custody on 27.07.2022 for the offences punishable under Sections 294(b), 506(ii) and 306 of IPC read with Sections 7 and 8 of the POCSO Act, 2012, in Crime No.25 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Mr.Elaiyaperumal, who is the father of the victim girl is that the petitioner/accused is his relative and that he had developed affair with his daughter and had promised that he would marry the victim girl after she attains 21 years of age and he was also in intimate relationship with her. Thereafter, the petitioner had developed intimacy with another girl, due to which, the victim girl committed suicide by consuming poison. Based on the complaint given by the defacto complainant, originally a case was registered for the offences punishable under Sections 294(b) and 506(ii) of IPC read with Sections 7 and 8 of the POCSO Act, 2012. Later, unfortunately the victim girl succumbed on 03.08.2022 and thereafter, the case has been altered to the offences punishable under Sections 294(b), 506(ii) and 306 of



CrI.O.P.No.22416 of 2022

IPC read with Sections 7 and 8 of the POCSO Act, 2012.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and they grew together and there was a intimate relationship between them; however, the parents had agreed to get them married after they attain marriageable age; whereas, later it was found that the horoscope did not match and thereby, there was a discussion in the family with regard to arranging marriage with someone else; the victim was misunderstood that and she had attempted to commit suicide by consuming poison fearing that the petitioner may not marry her and she was admitted in the hospital on 13.07.2022 and later she passed away without responding to the treatment on 03.08.2022. He would further submit that even as per the statement recorded from the victim girl that other than intimate relationship, there was no allegation of penetrative sexual assault as against the petitioner. He would also submit that the petitioner is in custody from 27.07.2022. Therefore, he prays for grant of bail to the petitioner.



Crl.O.P.No.22416 of 2022

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4. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the relative of the victim girl and there was love affair between them and they were intimate. While so, the petitioner developed relationship with another girl and the victim girl fearing that the petitioner may not marry her, had attempted to commit suicide by consuming poison. Based on the complaint given by her father, a case was registered on 17.07.2022 and the petitioner was arrested on 27.07.2022. He would also submit that the dying declaration has also been recorded from the victim girl when she was in the hospital by the learned Judicial Magistrate, Thittakudi on 17.07.2022 and in the dying declaration, she had stated that there was no penetrative sexual assault and that she had attempted to commit suicide, since the petitioner had developed intimacy with another girl. Therefore, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record including the dying declaration recorded from the victim girl.

6. It is seen that even as per the statement of the victim girl, she had



Crl.O.P.No.22416 of 2022

attempted to commit suicide on account of the petitioner having developed intimacy with another girl and however, there is no averments of penetrative sexual assault and the petitioner and the victim girl are relatives and they were grown up together.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner.

8. 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 Fast Track Mahila Court, Ariyalur**, 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;



CrI.O.P.No.22416 of 2022

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., 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.

16.09.2022

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6/8



CrI.O.P.No.22416 of 2022

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1. The District Fast Track Mahila Court, Ariyalur.
2. The Inspector of Police,
AWPS, Ariyalur Police Station,
Ariyalur District.
3. The Superintendent,
Central Prison,
Trichy.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA., J.

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Crl.O.P.No.22416 of 2022

Crl.O.P.No.22416 of 2022

16.09.2022