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CrI.O.P.No.22498 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM

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

CrI.O.P.No.22498 of 2022

Chinraj

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Panamarathupatty Police Station,
Salem District.

(Crime No.99/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in connection
with the Crime No.99 of 2022 on the file of the respondent Police.

For Petitioner : Ms.S.Sengkodi

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 23.07.2022 for the offences punishable under Section 9 of Prohibition of Child Marriage Act, 2006, Section 5(1) r/w 6 of Protection of Child from Sexual Offences Act, 2012, in Crime No.99 of 2022 on the file of the respondent Police, seeks bail.

2. Based on the complaint given by the District Social Welfare Officer, Salem, alleging that the petitioner and his family members arranged and performed the marriage between the petitioner and the daughter of the co-accused's daughter/victim, who is aged about 13 years, the respondent Police has registered the complaint.

3. The learned counsel appearing for the petitioner would submit that both the petitioner and the victim girl are related to each other, who belongs to the tribal community and on coming to know about their relationship, the customary marriage was performed between them by the elders of their family. She would further submit that the petitioner is an



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innocent person and he without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act, had performed the marriage. She would also submit that co-accused in this case namely A2, A3, A4 have already been granted with anticipatory bail by this Court in Crl.O.P.No.19991 of 2022 dated 24.08.2022. The learned counsel would further submit that the petitioner is in custody from 23.07.2022 and he is prepared to comply with any stringent condition imposed by the Court. Hence, she prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim is aged about 13 years. He would further submit that the petitioner and the victim girl are relatives and the marriage between the petitioner and the victim was performed by both the parents of the victim and the petitioner and thereafter, the petitioner committed sexual assault on the victim. He would also submit that 164 statement has also been recorded from the victim in which she had stated that there was love affair between them, due to which, elders performed their marriage. Hence, he opposed to grant bail to the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record including the 164 statement recorded from the victim girl.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also taking note of the 164 statement recorded from the victim girl, 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 Additional Mahila Court, Salem**, 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, everyday at 10.30 a.m., for a period



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of four weeks and thereafter, every Saturday at 10.30a.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.

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To

1. The Additional Mahila Court,
Salem.
2. The Sub-Inspector of Police,
Panamarathupatty Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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