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CrI.O.P.No.22439 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

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

**CrI.O.P.No.22439 of 2022**

A.Thirumaran

... Petitioner

Vs.

The State represented by,  
Station House Officer,  
Thavalakuppam Police Station,  
Puducherry.  
(Crime No.67 of 2022)

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleaded to enlarge the petitioner on bail in connection with Crime No.67 of  
2022, pending investigation on the file of the respondent Police.

For Petitioner : Mr.T.Muruganantham for  
Mr.E.Iyappan  
For Respondent : Mr.V.Balamurugane  
Public Prosecutor, Pondicherry.

**ORDER**

The petitioner, who was arrested and remanded to judicial custody  
on 27.07.2022, for the offences punishable under Section 6 r/w 5(j)(ii) and



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5(l) of POCSO Act, 2012, in Crime No.67 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Vithya is that her daughter Meenakshi was undergoing B.A. B.Ed Course and that the accused had induced her minor daughter and had sexual intercourse with her, due to which, she became pregnant. When it was questioned by the defacto complainant, the accused had refused to marry her daughter and had made arrangements to marry another girl. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are relatives and known to each other for a long time. He would also submit that the petitioner was having friendship with the victim girl for a long time and that they had consensual sexual affair, due to which she became pregnant. He would further submit that the petitioner was ready and willing to marry the victim girl, however, the defacto complainant and her husband taking into



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consideration the age difference between the petitioner and the victim, refused for the marriage and they have given a false complaint as if the petitioner's marriage was fixed with another lady.

4. He would further submit that the victim girl was born on 23.06.2004 and as on today, she has completed 18 years and she is free to take a decision on her own choice. He would also state that now the parents of the victim alone are against the marriage, whereas, the victim still insists for marriage. He would further state that though the parents of the victim are against the marriage, the victim girl is still interested in marrying the petitioner and the petitioner also undertakes to marry the victim girl. He would also submit that the petitioner is ready to file an affidavit before the trial Court that he will marry the victim girl as soon as she attains marriageable age and he also does not deny the paternity of the child. He would also state that the petitioner has also undertaken to take care of the victim girl and the child.



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5. He would further submit that the petitioner without prejudice to his defence, is also ready and willing to make a Fixed Deposit for a sum of Rs.5,00,000/- in favour of the victim girl/Meenakshi and he has no objection in her either using the amount or withdrawing quarterly interest from the Fixed Deposit so made. He would further reiterate that the petitioner is in custody for more than two months. Therefore, he prays for grant of bail to the petitioner.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the victim girl was aged less than 18 years at the time of occurrence and the petitioner had committed penetrative sexual assault on her, due to which she became pregnant and she is now 8 months pregnant. He would also submit that as on today, she has completed 18 years and 3 months. He would further submit that during the course of investigation, it was found that the parents of the victim are against the marriage and the victim is interested in marrying the petitioner. He would further reiterate that the major part of the investigation is over. He would also state that the victim has stated that an engagement was fixed between



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the petitioner and another lady. Hence, he vehemently opposed to grant bail to the petitioner.

7. At this juncture, learned counsel appearing for the petitioner would submit that the petitioner's engagement was arranged by his parents without his knowledge and coming to know that the case registered against the petitioner, the engagement has also been canceled and he undertakes to marry the victim girl. Therefore, he prays for grant of bail to the petitioner.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.

9. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel , this Court is inclined to grant bail to the petitioner with certain conditions.



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10. Accordingly, the petitioner shall deposit a sum of **Rs.5,00,000/-**

**(Rupees Five Lakhs only) in the form of Fixed Deposit in favour of the victim girl/Meenakshi** in any Nationalised Bank and shall produce the Fixed Deposit receipt at the time of furnishing sureties before the learned Magistrate **(The learned Magistrate shall retain the Fixed Deposit receipt for a period of three years and the victim is entitled to withdraw the quarterly interest on the Fixed Deposit receipt)** and on such deposit and production of proof, 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 Judge (POCSO Act), Puducherry**, 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 within a period of two weeks of coming out on bail shall file an affidavit before the concerned Court admitting the paternity and also file an undertaking to marry the victim girl as and when she attains marriageable age;**

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

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

[f] 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]*;

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

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To

1. The Special Judge (POCSO Act), Puducherry.
2. Station House Officer,  
Thavalakuppam Police Station,  
Puducherry.
3. The Superintendent,  
Central Prison,  
Puducherry.
4. The Public Prosecutor,  
High Court of Madras.



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

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