



Crl.O.P.No.22993 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

CORAM

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

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Nepoleon

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Erumapatti Police Station,
Namakkal District.
Crime No.170 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.170 of 2022 on the file
of the respondent police.

For Petitioner : Mr.K.Sai Sharavan Kumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 19.06.2022 for the offences punishable under Sections 366 and 324 of



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IPC r/w Section 5(1) and 6 of POCSO Act, 2012, in Crime No.170 of 2022

on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had love affair with the victim minor girl, who is aged about 15 years and he went to the victim girl's house when she was alone and had committed penetrative sexual assault on her. When the petitioner was caught by the mother of the victim girl, he assaulted her resulting in her sustaining injuries and kidnapped the victim girl to his house. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would also submit that the petitioner and the victim minor girl had love affair, since, it was objected to by the mother of the victim, she eloped from her house and joined with the petitioner, therefore, a false complaint has been given as against the petitioner. He would further submit that the petitioner, who is aged about 21 years, without understanding the rigours and consequences of POCSO Act, had entered into love affair with the victim



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minor girl. He would also submit that the petitioner understands that the 164 of Cr.P.C., statement has been recorded from the victim girl, wherein she had admitted that there was love affair between the petitioner and herself. He would also reiterate that the petitioner is in custody from 19.06.2022. He would further submit that the investigation has been completed and the final report has also been filed in Spl.S.C.No.98 of 2022 on the file of the concerned Court. Therefore, he prays for grant of bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner went to the victim girl's house when she was alone and had committed penetrative sexual assault on her. When the petitioner was caught by the mother of the victim girl, he assaulted her resulting in her sustaining injuries and kidnapped the victim girl to his house. He would also state that the investigation has been completed and the final report has also been filed in Spl.S.C.No.98 of 2022 on the file of the concerned Court. Therefore, he vehemently opposed to grant bail to the petitioner.



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5. Heard both the learned counsel and perused the materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.

6. Taking into consideration 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 Sessions (Fast Track Mahila) Judge, Namakkal**, 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;



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[b] the petitioner report before the trial Court, 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.

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To

1. The Sessions (Fast Track Mahila) Judge, Namakkal.
2. The Inspector of Police,
Erumapatti Police Station,
Namakkal District.
3. The Superintendent,
Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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