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CrI.O.P.No.22788 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.09.2022**

CORAM

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

CrI.O.P.No.22788 of 2022

Yuvaraj

... Petitioner

Vs.

State Rep by
The Inspector of Police,
Kaveripakkam Police Station,
Vellore District.
(Crime No.128 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime
No.128 of 2022 on the file of respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.C.E.Pratap,
Government Advocate



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Crl.O.P.No.22788 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.07.2022 for the offences punishable under Sections alters to 363, 366, 376(2)(n), 109 of IPC and Sections 5(1) and 6 of POCSO Act 2012 in Crime No.128 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the father of the victim girl is that the petitioner had kidnapped his minor daughter, aged about 17 years , induced her and committed penetrative sexual assault on her. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person, aged about 21 years, without much knowledge and without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had a relationship with the victim girl. He would further submit that the petitioner and victim girl are known to each other for some time and there was a love affair between them. After coming to know that the parents of the victim, had arranged marriage for her with some one else against her wishes, the victim girl came to the



Crl.O.P.No.22788 of 2022

house of the petitioner and on her compulsion, the petitioner had taken her away from his house to Bangalore. Later, coming to know about the registration of case, the petitioner had surrendered before the respondent police and the victim girl has also been secured. The statement of the victim girl under Section 164 of Cr.P.C., has been recorded wherein, she has not stated as if the petitioner had committed sexual assault on her. He would further submit that the petitioner is in custody from 05.07.2022. Hence, he prays for grant of bail to the petitioner.

4. Per contra, learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the victim girl and had committed penetrative sexual assault on her. Therefore, based on the complaint given by the father of the victim, the petitioner was arrested by the respondent Police on 05.07.2022. He would also submit that investigation is pending and that the statement of the victim girl under Section 164 of Cr.P.C has also been recorded. Hence, he opposed to grant bail to the petitioner.



Crl.O.P.No.22788 of 2022

WEB COPY

5. Heard the learned counsel for the petitioner and the learned learned Government Advocate (crl.side) 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 taking note of the 164 statement recorded from the victim girl and also the period of incarceration suffered by the petitioner from 05.07.2022, 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 Judicial Magistrate No.II, Walajapet** 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.22788 of 2022

[b] the petitioner shall report before the respondent police everyday 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.

21.09.2022

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Crl.O.P.No.22788 of 2022

A.D.JAGADISH CHANDIRA.,J.

shk

To

1. The Learned Judicial Magistrate, No.II, Walajapet
2. The Inspector of Police,
Kaveripakkam Police Station,
Vellore District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.22788 of 2022

21.09.2022