



Crl.O.P.No.23098 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

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

Crl.O.P.No.23098 of 2022

Suthir Kumar @ Abdul Rahman

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thirumurugan Poondi Police Station,
Tiruppur City.

(Crime No.438 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.438 of 2022, pending
investigation on the file of the respondent Police.

For Petitioner : Mr.J.Franklin

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 27.7.2022 for the offences punishable under Section 366 (A) of IPC r/w Sections 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012, and Section 9 of Child Marriage Act, 2006, in Crime No.438 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner has kidnapped the minor victim girl, aged about 17 years from the lawful guardianship of the de-facto complainant and committed penetrative sexual assault on her. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner, aged about 18 years, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed a love affair with the minor victim girl and married her and had a physical relationship with her. He would also submit



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that the petitioner is in custody from 27.07.2022 and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the victim minor girl and performed marriage with her and committed penetrative sexual assault on her and therefore, the petitioner was arrested by the respondent Police on 27.07.2022. He would also submit that the statement under Section 164 Cr.P.C has also been recorded from the victim girl. Hence, he opposed to grant bail to the petitioner.

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

6. Taking into consideration the facts and the submissions made by the learned counsel for the petitioner and taking note of the fact that the 164



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statement recorded from the victim girl wherein she had stated that there was a love affair between them and on her own volition gone along with the petitioner and also considering the age of the petitioner and the period of incarceration undergone by the petitioner, 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 Judge Magalir Neethimandram, (FTMC), Tiruppur**, 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., until further orders;

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



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[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.

17.10.2022

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To

1. The Sessions Judge Magalir Neethimandram, (FTMC), Tiruppur.
2. The Inspector of Police, Thirumurugan Poondi Police Station, Tiruppur District.
3. The Central Prison, Coimbatore.
4. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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