



Crl.O.P.No.23777 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

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

Crl.O.P.No.23777 of 2022

Nanthakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station, Velur,
Namakkal District.

(Crime No.5 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.5 of
2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.Prabakaran

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



Crl.O.P.No.23777 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.07.2022 for the alleged offences punishable under Section 363 IPC, 5(l), 5(j)(ii) r/w 6,17 of Protection of Children from Sexual Offences Act, 2012, and Section 9 of Child Marriage Act, 2006, in Crime No.5 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the de-facto complainant is that the petitioner had developed a love affair with the minor victim girl and married her and also committed penetrative sexual assault on her, due to which, she become pregnant. Based on the complaint given by the Social Welfare Officer, a case in Crime No.5 of 2022 has been registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are hail from the poor strata of the society and the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed an affair with the minor victim girl and had married her in temple.



Crl.O.P.No.23777 of 2022

He would further submit that the victim girl become pregnant and the complaint has been lodged against the petitioner only based on the child help line. He would also submit that now the victim girl has delivered a girl child and the petitioner does not deny the paternity. He would further submit that the petitioner is in custody from 15.07.2022. He would also submit that the petitioner understands that 164 statement has been recorded from the victim girl, wherein, she had stated that there was a love affair between the petitioner and the victim girl. Hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that based on the complaint given by the de-facto complainant, a case in Crime No.5 of 2022 has been registered against the petitioner for marrying the minor girl and for committing penetrative sexual assault on her. He would further submit that the petitioner has been arrested on 15.07.2022. He would also submit that the 164 statement has also been recorded from the victim girl. However, he oppose to grant bail to the petitioner.



Crl.O.P.No.23777 of 2022

WEB COPY

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 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 that the victim, on her own volition gone along with 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, Fast Track Mahila Court, 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;



WEB COPY



Crl.O.P.No.23777 of 2022

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., for a period 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.

10.10.2022

ham



Crl.O.P.No.23777 of 2022

WEB COPY

To

1. The Sessions Judge, Fast Track Mahila Court,
Namakkal.
2. The Inspector of Police,
All Women Police Station,
Velur,
Namakkal District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.23777 of 2022

A.D.JAGADISH CHANDIRA.,J.

ham

Crl.O.P.No.23777 of 2022

10.10.2022