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Crl.O.P.No.23692 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

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

Crl.O.P.No.23692 of 2022

K.Thirumavalavan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Nannilam,
Thiruvarur District.
(Crime No.12 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner in Crime No.12 of 2022, pending
investigation on the file of the respondent Police.

For Petitioner : Mr.R.Prabu

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 22.05.2022, for the offences punishable under Sections 4(2), 5(n), 5(l), 5(j), (ii), 6 of POCSO Act, 2012 and Section 9 of Child Marriage Restraint Act, 1929, in Crime No.12 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is the maternal uncle of the victim girl, committed penetrative sexual assault on her, due to which, she became pregnant and thereafter, he had married the victim girl on 31.03.2021. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives. He would also submit that the petitioner is the maternal uncle of the victim girl and they grew together and as per the family custom, the petitioner was supposed to marry the victim girl. He would also submit that the petitioner, who is aged only 19 years, without understanding the consequences and rigours of the



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POCSO Act, entered into a physical relationship with the girl, thereby, she became pregnant and due to the intervention of family members, the marriage was also performed. Later when the victim had gone to the hospital for checkup, on the complaint of the Doctor, a police complaint has been given. He would further submit that the petitioner is in custody for more than 140 days. He would also state that the petitioner understands that the victim girl has given a statement under Section 164 of Cr.P.C., wherein she had stated that she has married the petitioner out of her affection towards him and the marriage was also performed by the members of both the families. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner is none other than the maternal uncle of the victim girl. He would also submit that though, as per the complaint, the victim girl had stated that the petitioner had forced her to have sexual intercourse. Subsequently, a statement was recorded under Section 164 of Cr.P.C., from the victim girl, wherein she had stated that she had married the petitioner out of her affection towards him. He would further



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submit that the final report has been filed and it is yet to be taken on file.

Hence, he vehemently opposed to grant bail to the petitioner.

5. 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.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the statement recorded from the victim girl under Section 164 of Cr.P.C., this Court is inclined to grant bail to the petitioner with certain conditions.

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)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate Court, Nannilam, Thiruvarur District**, and on further conditions that:

[a] the sureties shall affix their photographs and



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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 learned Mahila Court, Thiruvarur District, on all working days 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.

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1. The Judicial Magistrate Court,
Nannilam, Thiruvarur District.
2. The Inspector of Police,
All Women Police Station,
Nannilam,
Thiruvarur District.
3. The District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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