



Crl.O.P.No.23898 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

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

Crl.O.P.No.23898 of 2022

Mani

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Marandahalli Police Station.
Cr.No.129/2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused herein on bail in Crime No.129 of
2022 on the file of the respondent police pending investigation of the case.

For Petitioner : Mr.M.Mushtaq Ahmed

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 25.07.2022, for the offences punishable under Sections 363, 366 of IPC
and Section 5(a) read with Section 6 of POCSO Act in Crime No.129 of
2022 on the file of the respondent police, seeks bail.



CrI.O.P.No.23898 of 2022

2. The case of the prosecution is that there was love affair between the petitioner and the victim minor girl, who is aged about 17 years and thereby, on a false promise of marrying her, the petitioner had committed penetrative sexual assault on the victim minor girl on several occasions. 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 parents of the victim, a false complaint has been given as against the petitioner. He would further submit that the petitioner without understanding the rigours and consequences of POCSO Act, had entered into love affair with the victim 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, where she has stated that she was having love affair with the petitioner and that the mother of the victim did not like it, she had given a complaint as against the petitioner and that there is no mistake on the part of the petitioner. He would also reiterate that the



Crl.O.P.No.23898 of 2022

petitioner is in custody from 25.07.2022. 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 there was love affair between the petitioner and the victim minor girl, who is aged about 17 years and thereby, on a false promise of marrying her, the petitioner had committed penetrative sexual assault on the victim minor girl on several occasions. Therefore, he vehemently opposed to grant bail to the petitioner.

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 the period of incarceration suffered by the petitioner 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.



CrI.O.P.No.23898 of 2022

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 District Munsif Cum Judicial Magistrate at Pennagaram, Dharmapuri District**, 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 stay at Dharmapuri and report before the Inspector of Police, Dharmapuri Town Police Station daily at 10.30 a.m., until further orders. It is made clear that the petitioner shall not enter into the jurisdiction limits of the respondent police station.

[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



Crl.O.P.No.23898 of 2022

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.

30.09.2022

Sma

To

1. The District Munsif cum Judicial Magistrate at Pennagaram,
Dharmapuri District.
2. The Inspector of Police,
Marandahalli Police Station.
3. District Prison,
Dharmapuri District.
4. The Public Prosecutor,
High Court of Madras.

5/7



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CrI.O.P.No.23898 of 2022



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Crl.O.P.No.23898 of 2022

A.D.JAGADISH CHANDIRA,J.,

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Crl.O.P.No.23898 of 2022

30.09.2022