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CrI.O.P.No.23778 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

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

CrI.O.P.No.23778 of 2022

Sakthi @ Sakthivel

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Edappadi Police Station.
Salem.

(Crime No.182 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in connection with the Crime No.182
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.R.Jayaprakash

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 30.08.2022 for the alleged offences punishable under Section 366 of IPC, Section 9 of Prohibition of Child Marriage Act and Sections 9(1) r/w 10 of POCSO Act in Crime No.182 of 2022 on the file of the respondent Police, seeks bail.

2. On the complaint given by one Selvam that his daughter aged about 16 years was found missing, a case in crime No.182 of 2022 has been registered by the respondent Police for "girl missing". During the course of investigation, it came to light that the accused/petitioner had kidnapped the victim girl for the purpose of marrying her and had committed sexual assault on her . Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person. He would further submit that the petitioner was having love affair with the daughter of the de-facto complainant/victim girl and since, it was objected by the family members of the victim girl, both the petitioner and the victim girl eloped and get married



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at Sendraya Perumal Kovil. He would also submit that 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 and while, on coming to know about the case, the petitioner himself surrendered before the respondent police. He would further submit that the petitioner understands that even in the 164 statement recorded from the victim girl, there is no allegation as against the petitioner, as if he had committed penetrative sexual assault on her. He would further submit that the petitioner is in custody from 30.08.2022. 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.182 of 2022 has been registered by the respondent Police for "girl missing". Later, it was altered to the alleged offences punishable under Section 366 of IPC, Section 9 of Prohibition of Child Marriage Act and Sections 9(1) r/w 10 of POCSO Act against the petitioner for marrying the minor girl and for committing sexual assault on her. He would further submit that the petitioner has been arrested on



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30.08.2022. 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.

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 and also considering 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 Principal District Munsif cum Judicial Magistrate,**



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Edappadi, 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;

[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

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To

1. The Principal District Munsif cum Judicial Magistrate,
Edappadi.
2. The Inspector of Police,
Edappadi Police Station.
Salem.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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