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Crl.O.P.No.24245 of 2022

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.24245 of 2022

Parthiban

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Chozhatharam Police Station,
Chozhatharam,
Cuddalore District.

(Crime No.267 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.267 of 2022, pending
investigation on the file of the respondent Police.

For Petitioner : Mr.D.Arun

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



Crl.O.P.No.24245 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.09.2022 for the offences punishable under Sections 366, 343, 451 of IPC r/w Sections 3,4,7,8 of Protection of Children from Sexual Offences Act, 2012, in Crime No.267 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, mother of the minor victim girl, is that the main accused has kidnapped the the de-facto complainant's daughter and committed sexual assault on her and the allegation against the petitioner, who is the friend of the first accused, is that he had given asylum to the main accused. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely roped in in this case. He would further submit that based on the complaint given by the de-facto complainant initially a case was registered for "girl missing" and



Crl.O.P.No.24245 of 2022

during the course of investigation, it came to light that the petitioner eloped with the victim girl and taken her to the house of the petitioner and kept the victim girl for 2 days. He would also submit that the petitioner understands that statement under Section 164 Cr.P.C. has been recorded from the victim girl, wherein, she had stated that on her own volition, she came with the main accused and there is no averment as against the petitioner. She would also submit that other than being friend of the main accused, the petitioner had nothing to do with the alleged offence and since, the respondent police was unable to find the whereabouts of the main accused, he has been arrested and he is in custody from 09.09.2022. 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, who is the friend of the main accused had given asylum to the main accused and the minor victim girl. He would further submit that the minor victim girl has been secured and the statement has also been recorded from her under 164 Cr.P.C. However, he vehemently oppose for grant of bail to the petitioner.



Crl.O.P.No.24245 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 the submissions made by the learned counsel for the petitioner and taking note of the fact that the 164 statement recorded from the victim girl wherein she had stated that on her own volition gone along with the main accused and also considering the fact that there is no specific averment as against 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 POCSO Court, Cuddalore**, and on further conditions that:



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Crl.O.P.No.24245 of 2022

[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]**;



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Crl.O.P.No.24245 of 2022

[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 POCSO Court,
Cuddalore.
2. The Inspector of Police,
Chozhatharam Police Station,
Chozhatharam, Cuddalore District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.24245 of 2022

A.D.JAGADISH CHANDIRA., J.

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Crl.O.P.No.24245 of 2022

17.10.2022