



WEB COPY



Crl.O.P.No.24805 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2022

CORAM

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

Crl.O.P.No.24805 of 2022

Gopalakrishnan @ Gopal

... Petitioner

Vs.

The State Rep.By
Inspector of Police,
Anuparpalayam Police Station,
Tiruppur.
Crime No.633 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.633 of 2022 on the file
of the respondent police.

For Petitioner : Mr.Deepanuday

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



CrI.O.P.No.24805 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.09.2022, for the offences punishable under Section 366(A) of IPC and Section 5(i), 5(j)(ii) r/w 6 of the POCSO Act, 2012 and Sections 12 and 9 of Child Marriage Act, 2006, in Crime No.633 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the minor victim girl from her lawful guardianship and thereafter, performed child marriage and had committed penetrative sexual assault on her. 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 girl are known to each other and there was love affair between the petitioner and the victim girl, since, it was objected to by the parents of the victim, she eloped from her



Crl.O.P.No.24805 of 2022

house and joined with the petitioner, therefore, a false complaint has been given as against the petitioner. He would also submit that the petitioner without understanding the consequences and rigours of the POCSO Act, entered into love affair with the victim girl. He would further submit that the petitioner understands that the statement has been recorded from the victim girl under Section 164 of Cr.P.C., wherein, she had stated that there was love affair between her and the petitioner and that she was eloped with the petitioner on her own volition. 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 the petitioner kidnapped the minor victim girl from her lawful guardianship and thereafter, performed child marriage and had committed penetrative sexual assault on her. 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



Crl.O.P.No.24805 of 2022

under Section 164 of Cr.P.C.

WEB COPY

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel 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.

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 Judicial Magistrate III, Tiruppur**, 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 report before the respondent police, daily at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during



CrI.O.P.No.24805 of 2022

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.

18.10.2022

rgi



WEB COPY



CrI.O.P.No.24805 of 2022

To

1. The Judicial Magistrate III, Tiruppur.
2. The Inspector of Police,
Anuparpalayam Police Station,
Tiruppur.
3. The Central Jail, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.24805 of 2022

A.D.JAGADISH CHANDIRA., J.

rgi

Crl.O.P.No.24805 of 2022

18.10.2022