



Crl.O.P.Nos.24700 & 24701 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

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

Crl.O.P.Nos.24700 & 24701 of 2022

Arunkumar ... Petitioner in Crl.O.P.No.24700 of 2022

1. Soniya

2. Karuppannan ... Petitioners in Crl.O.P.No.24701 of 2022

Vs.

The State represented by
The Inspector of Police,
Vennandhur Police Station,
Namakkal District.

(Crime No.142/2022). ... Respondent in both the Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioners on bail pending investigation in connection with the Crime No.142 of 2022 on the file of the respondent Police.



Crl.O.P.Nos.24700 & 24701 of 2022

In both the Crl.O.Ps.

For Petitioners : Mr.W.Camyles Gandhi

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

COMMON ORDER

The petitioner in Crl.O.P.No.24700 of 2022, who was arrested and remanded to judicial custody on 25.07.2022 for the offences punishable under Section 366 of IPC, Section 5(1) r/w 6 of POCSO Act 2012, in Crime No.142 of 2022 on the file of the respondent Police, seeks bail.

The petitioners in Crl.O.P.No.24701 of 2022, who were arrested and remanded to judicial custody on 06.09.2022 for the offences punishable under Sections 366 of IPC, Section 5(1) r/w 6 r/w 17 of POCSO Act 2012, in Crime No.142 of 2022 on the file of the respondent Police, seek bail.

2. The case of the prosecution as per the defacto complainant is that her daughter was studying 12th standard and she was found missing, a case in crime No.142 of 2022 has been registered by the respondent Police for "girl missing". Later, it was found that the first accused had kidnapped



Crl.O.P.Nos.24700 & 24701 of 2022

the minor girl from her lawful guardianship and taken her to Chennai and got married her and the other accused who are aunty and uncle of A1 have performed the marriage. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that A1 was aged about 20 years and there was a love affair between the petitioner and the defacto complainant's daughter. The defacto complainant came to know about the love affair, arranged marriage for the victim girl without her permission and therefore, the victim had eloped from the house and A1 without understanding the consequences and rigors of the POCSO Act, had taken the victim girl to Thiruchengode and thereafter, gone to Chennai and tied thali in the presence of his friends. Thereafter, A1 along with the victim girl had stayed in the house of the accused 2 and 3. He would further submit that the major part of the investigation is over and even in the 164 statement recorded from the victim girl, there is no averment of sexual assault as against A1. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor



Crl.O.P.Nos.24700 & 24701 of 2022

daughter of the defacto complainant from her lawful guardianship and taken her to Thiruchengode and Chennai and committed sexual assault on her. He would also submit that the 164 statement has also been recorded from the victim. Hence, he opposed to grant bail to the petitioners.

5. Heard the learned counsel for the petitioners 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 there is no averment of sexual assault as against the petitioners, this Court is inclined to grant bail to the petitioner.

7. Accordingly, each of the petitioners are 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 Sessions Judge, Fast Track Mahila Court,**



Crl.O.P.Nos.24700 & 24701 of 2022

Namakkal, 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 in Crl.O.P.No.24700 of 2022 shall report before the repondent Police, daily at 10.30 a.m., until further orders; the first petitioner in Crl.O.P.No.24701 of 2022 shall report before the respondent Police as and when required for interrogation; the second petitioner in Crl.O.P.No.24701 of 2022 shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter every Saturday at 10.30 a.m., until further orders.

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the



WEB COPY



Crl.O.P.Nos.24700 & 24701 of 2022

petitioners 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.

12.10.2022

vkf

To

1. The Sessions Judge, Fast Track Mahila Court, Namakkal.
2. The Inspector of Police,
Vennandhur Police Station,
Namakkal District.
3. The Central Prison,
Salem.
4. The Central Prison (for Women),
Salem.
5. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.Nos.24700 & 24701 of 2022

A.D.JAGADISH CHANDIRA.,J.

vkr

Crl.O.P. Nos.24700 & 24701 of 2022

12.10.2022