



Crl.O.P.No. 24804 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

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

Crl.O.P.No. 24804 of 2022

Rajkanna

... Petitioner

Vs.

The State Rep.by
Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruvararu District.
Crime No.373 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.373 of 2022 on the file of
Inspector of Police, Thiruthuraipoondi Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.08.2022, for the offences punishable under Sections 366(A) of IPC and Sections 3(a) and 4 of POCSO Act, 2012, in Crime No.373 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner committed penetrative sexual assault on the victim minor girl and since, it was known to the family members, had kidnapped the victim minor girl from her lawful guardianship to Tirupathi and later, coming to know of the case registered, the petitioner had appeared before the respondent police along with the victim minor girl. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is aged about 23 years and he is the neighbour of the victim minor girl and they have grown up together and there was love affair between the petitioner and the victim minor girl. He would also submit that the petitioner without understanding the consequences and rigours of the POCSO



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Act, had physical affair with the victim minor girl. Since, the family members are reprimanded, the petitioner and the victim minor girl eloped from their house and later coming to know of the registration of case, they came back together and surrendered before the respondent police. 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 admitted that there was love affair between them. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner is the friend of the victim girl's brother and he had developed friendship with the victim girl. Pursuant to which, he had committed penetrative sexual assault on her and thereafter, kidnapped her and later, coming to know about the registration of a case, they have surrendered before the respondent police. Hence, he vehemently opposed to grant bail to the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) 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 statement recorded from the victim girl under Section 164 of Cr.P.C., this Court is inclined to grant bail to the petitioner with certain conditions.

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)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Sessions Judge, Fast Track Mahila Court, Thiruvavarur, Thiruvavarur 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;



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[b] the petitioner shall report before the respondent police, daily 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.

11.10.2022

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To

1. The Sessions Judge, Fast Track Mahila Court,
Thiruvarur, Thiruvarur District
2. The Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruvararu District.
3. The District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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