



CrI.O.P.No.25313 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

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

CrI.O.P.No.25313 of 2022

Vijay

... Petitioner

Vs.

State Rep. by Inspector of Police,
Yethapur Police Station,
Salem District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.341/2022 pending
investigation on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

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 29.08.2022 for the offences punishable under Section 366 of IPC and Section 9 of Prohibition of Child Marriage Act 2006 and Section 5(j)(ii) read with 6 of Protection of Children from Sexual Offence Act, 2012 in Crime No.341 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner performed child marriage with the victim girl and thereafter committed penetrative sexual assault on her. Due to which she got pregnant and delivered a baby. The complaint was registered based on the information given by the hospital authorities.

3. Learned Counsel for the petitioner would submit that a statement was also recorded from the victim girl under Section 164 of Cr.P.C., wherein she had admitted that there was a love affair between them and both of them have eloped together. He would further submit that the victim girl has also delivered a baby. Hence, he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner performed child marriage with the victim girl and thereafter committed penetrative sexual assault on her. Due to which she got pregnant and delivered a baby. The complaint was registered based on the information given by the hospital authorities. He would further submit that the 164 statement has also been recorded from the victim girl. Hence, he opposed for grant of 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 the submissions made by the learned counsel and also taking note of the 164 statement recorded from the victim girl, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on



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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 **learned Principal Special Judge for Exclusive Trial of Cases under POSCO Act 2012, Salem** 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.



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mpl

To

1. The Principal Special judge for Exclusive Trial of Cases under POCSO Act 2012, Salem.
2. The Inspector of Police, Yethapur Police Station, Salem District.
3. District Jail, Attur.
4. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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