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Crl.O.P.No.25553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

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

Crl.O.P.No.25553 of 2022

S.Kumar

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Omalur Police Station,
Salem District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime
No.334 of 2022 on the file of the Respondent Police.

For Petitioner : Mr.K.Selvaraj

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 09.09.2022 for the offences punishable under Section 366 of IPC read with Section 16 read with 17 of POCSO Act, 2012 in Crime No.334 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant Chithra/mother of the victim girl is that on 09.06.2022, her daughter aged about 17 years was found missing. Based on the complaint, a case was registered in Crime No.334 of 2022 for girl missing. Thereafter, during the course of investigation it came to light that A1/Manikandan had kidnapped her daughter and had committed penetrative sexual assault on her. The allegations as against the petitioner is that the petitioner had accompanied the said Manikandan and the victim girl in the bus.

3. Learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case since he happens to be the neighbour of the main accused. He would



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further submit that the said Manikandan and the victim girl where in love for a long time. Since it was objected by the parents of the victim girl, the victim girl eloped with the said Manikandan. He would further submit that the petitioner other than accompanying them, he has not committed any offence under Section POCSO Act. He would further submit that the petitioner was arrested and remanded to judicial custody on 09.09.2022 and further understanding that a statement has also been recorded from the victim girl wherein she has not mentioned any allegation as against the petitioner, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that petitioner is the neighbour of the main accused. He would further submit that he had abetted the main accused to kidnap the minor victim girl from her lawful guardianship and other than this, there is no other specific allegation as against the petitioner. However, 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



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available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also the period of incarnation of 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 **Principal POCSO Court, 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;



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[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.

19.10.2022

mpl



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A.D.JAGADISH CHANDIRA.,J.

mpl

To

1. The Principal POCSO Court, Salem.
2. The Inspector of Police,
Omalur Police Station,
Salem District.
3. Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.

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