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Crl.O.P.No.25844 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

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

Crl.O.P.No.25844 of 2022

Maheswaran

... Petitioner

Vs.

State by:-

The Inspector of Police,
All Women Police Station Tiruvarur,
Tiruvarur District.

(Crime No.25 of 2022)

.. Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner pending investigation in Crime No.25 of
2022 on the file of the respondent police.

For Petitioner : Mr.D.Lakshmipathy

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 30.08.2022 for the offences punishable under Sections 6 and 5(I) of Protection of Children from Sexual Offences Act, 2012 in Crime No.25 of 2022 on the file of the respondent police, seeks bail.

2. On the complaint given by one Amsavalli that her daughter aged about 14 years was found missing, a case in crime No.25 of 2022 has been registered by the respondent Police for "girl missing". During the course of investigation, it came to light that the accused/petitioner had kidnapped the victim girl for the purpose of marrying her and had committed sexual assault on her . Hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person. He would submit that the petitioner was having love affair with the daughter of the de-facto complainant/victim girl and since, it was objected by the family members of the victim girl, both the petitioner and the victim girl eloped. He would further submit that



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without understanding the consequences and rigors of the POCSO Act, had developed an affair with the minor victim girl. He would also submit that the victim girl has also given statement under Section 164 of Cr.P.C, wherein she has stated that there was an love affair between between them. He would submit that the medical examination and the investigation in respect of the petitioner and victim girl has been completed. Hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police would submit that based on the complaint given by the de-facto complainant, a case in Crime No.25 of 2022 has been registered by the respondent Police for "girl missing". Later, it was altered to the alleged offences punishable under Sections 6 and 5(1) of POCSO Act against the petitioner for marrying the minor girl and for committing sexual assault on her. He would also submit that the girl has been secured and he would also state that there is no allegation of sexual assault. the petitioner has been arrested on 30.08.2022. He would also submit that the 164 statement has also been recorded from the victim girl. However, he oppose 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 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 the victim, on her own volition gone along with the petitioner and also considering the period of incarceration undergone by 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)** each with **two sureties, in which, one surety should be either mother or father of the petitioner**, each for a like sum to the satisfaction of the **learned Sessions Judge, Fast Track Mahila Court, Tiruvarur** 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 stay at Chennai and report before the Inspector of Police, Flower Bazaar Police Station, 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.

20.10.2022

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To

- 1.The Learned Sessions Judge,
Fast Track Mahila Court,
Tiruvarur.
- 2.The Inspector of Police,
All Women Police Station Tiruvarur,
Tiruvarur District.
- 3.The District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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