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Crl.O.P.No.25851 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.25851 of 2022

Sakthivel

... Petitioner

Vs.

State by:-

The Inspector of Police,
South Police Station,
Tiruppur,
Tiruppur District.

(Crime No.447 of 2022)

.. Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioner pending investigation in Crime No.447
of 2022 on the file of the respondent police.

For Petitioner : Mr.M.N.Balakrishnan

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 08.07.2022 for the offences punishable under Section 366(A) of IPC and Sections 5(1) r/w 6 of POCSO Act, 2012 in Crime No.447 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there was a love affair between the petitioner and the victim girl and thereby, the petitioner had kidnapped the victim girl aged about 16 years, from her lawful guardianship and committed penetrative sexual assault on the victim girl. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are neighbours and there was a love affair between them. He would further submit that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed an affair and had a consensual physical relationship with the minor victim girl. He would also submit that it came to the knowledge of the parents and the complaint has been lodged



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against the petitioner and he has been arrested and he is in custody from 08.07.2022. He would also submit that the petitioner understands that statement under Section 164 Cr.P.C., has been recorded from the victim girl, wherein, she had stated that there was a love affair between the petitioner and the victim girl and they had a consensual relationship. Hence, he prays for grant of bail to the petitioner.

4.The Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner had kidnapped the victim girl and had committed sexual assault on her. He would further submit that the statement has also been recorded from the victim girl under 164 Cr.P.C. However, he oppose for grant of bail to the petitioner.

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 the submissions made by



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the learned counsel for the petitioner and also considering the 164 statement recorded from the victim girl that there was a love affair between them, 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**, each for a like sum to the satisfaction of the **learned Magalir Neethimandram (FTMC), Tiruppur** 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 stay at Salem and report before the Inspector of Police, Fairlands Police Station, Salem 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



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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

vkrr

To

- 1.The Learned Magalir Neethimandram (FTMC),
Tiruppur.
2. The Inspector of Police,
South Police Station,
Tiruppur,
Tiruppur District.
- 3.The Inspector of Police,
Fairlands Police Station,
Salem.
4. Central Prison,
Coimbatore.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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