



Crl.O.P.No.25991 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM

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

Crl.O.P.No.25991 of 2022

Karan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Panamarathupatty Police Station,
Salem District.

(Crime No.94 of 2022)

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,

pleased to enlarge the petitioner on bail connected with Crime No.94 of 2022

on the file of the respondent police.

For Petitioner : Mr.M.Ganesh

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 04.08.2022 for the alleged offences punishable under Section 9 of Child Marriage Act and altered to one under Sections 5(1) and 6 of Protection of Children from Sexual Offences Act, 2012, , in Crime No.94 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner had kidnapped the minor victim girl from the legal guardianship of the de-facto complainant and performed marriage and also committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person, aged about 22 years, without understanding the consequences and rigors of the Protection of Children from Sexual Offences Act and the Child Marriage Act, had a relationship with the victim girl and married her. He would further submit that the petitioner and victim girl are known to each other and there was a love affair between them, since, it was objected to by the parents of the victim girl, they



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eloped and got married and had a consensual relationship. He would also submit petitioner is in custody from 04.08.2022. He would also submit that the petitioner understands that statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had stated that there was a love affair between the petitioner and the victim girl. 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.94 of 2022 has been registered against the petitioner for marrying the minor girl and for committing penetrative sexual assault on her. He would further submit that the petitioner has been arrested on 04.08.2022. He would also submit that the statement under Section 164 Cr.P.C., has also been recorded from the victim girl. Hence, he opposed to grant 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



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victim girl.

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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, 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 the **learned Principal Sessions Judge for Exclusive Trial of cases under POCSO Act, 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;



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[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.

26.10.2022

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To

1. The Principal Sessions Judge
for Exclusive Trial of cases under POCSO Act, Salem.
2. The Inspector of Police,
Panamarathupatty Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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