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CrI.O.P.No.25987 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM

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

CrI.O.P.No.25987 of 2022

Arunprakash

... Petitioner

Vs.

State represented by its,
Inspector of Police,
Palavanthangal Police Station,
(Crime No.192 of 2022 filed for girl missing)
Now altered U/s. 366A IPC and 5 (l) r/w 6 of
POCSO Act 2012 and pending on the file of
Inspector of Police,
AWPS St Thomas Mount,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail in Crime No.192 of 2022 on
the file of respondent police.

For Petitioner : Mr.R.Sampath Kumar

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 23.09.2022 for the offences punishable under Section 366 A of IPC and Section 5(1) read with 6 of Protection of Children from Sexual Offences Act 2012 in Crime No.192 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that as per the *de-facto* complainant is that on 14.09.2022 at about 9.00 a.m., her daughter aged about 17 years who had left to school from their home has not returned back. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act, had fell in love with the victim minor girl. He would further submit that the petitioner is aged about 24 years and the victim and the petitioner are known to each other. There was a love affair between them. After coming to know about the love affair, the parents of the victim girl had compelled her to perform



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marriage with someone else. Thereby, the victim had eloped from home and joined with the petitioner. Thereafter, they stayed in Chennai and on coming to know about the registration of the case, they had returned back to their village. He would further submit that 164 statement was also recorded from the victim girl wherein she has not made any allegation as against the petitioner as if the petitioner had sexually exploited her. He would further submit that the major part of the investigation is over. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that on the pretext of love affair, the petitioner had kidnapped the minor victim girl and committed penetrative sexual assault on her. 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.



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6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel, 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 **learned Special Judge, Special Court for exclusive trial of case under POCSO Act, Chengalpattu** 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.

27.10.2022

mpl

To

1. The Special Judge, Special Court for exclusive trial of case under POCSO Act, Chengalpattu.
2. The Inspector of Police,
AWPS St Thomas Mount,
Chennai.
3. District Prison, Chengalpattu.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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