



Crl.O.P.No.26594 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

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

Crl.O.P.No.26594 of 2022

Raja

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
T-4, Maduravoyal Police Station,
C/I Thirumangalam All Women Police Station,
Chennai.

(Crime No.433 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.433
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.A.Vijayasankar

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 06.09.2022 in Crime No.433 of 2022 which is initially registered for girl missing and later, altered to the alleged offence punishable under Section 366 IPC & Section 9 of Prohibition of Child Marriage Act, 2006, r/w Section 6 of Protection of Children from Sexual Offences Act, 2012, on the file of the respondent Police, seeks bail.

2. On the complaint given by the de-facto complainant that her daughter aged about 17 years was found missing, a case in crime No.433 of 2022 has been registered by the respondent Police for "girl missing". During the course of investigation, it came to light that the accused had kidnapped the victim girl and married her and also committed penetrative sexual assault on her. Thereby, the case has been altered to the offence punishable under Section 366 IPC & Section 9 of Prohibition of Child Marriage Act, 2006, r/w Section 6 of Protection of Children from Sexual Offences Act, 2012. Hence the case.



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3. The learned counsel appearing for the petitioner submitted that the petitioner, who is aged about 21 years, is an innocent person and a false complaint has been given as against him. He further submitted that the petitioner was having a love affair with the daughter of the de-facto complainant/victim minor girl, aged about 17 years and when the family members of the victim girl coming to know about their affair, the de-facto complainant forced the victim to marry her aunt's son, against her choice, therefore, the victim on her own volition had left the home and married the petitioner. He also submitted that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had eloped with the minor victim girl and married her in temple. He also submitted that the petitioner understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had stated that only on her own volition, she came with the accused and there is no averment as against the petitioner, as if he had committed penetrative sexual assault on her. He further submitted that the petitioner is in custody from 06.09.2022. Hence, he prays for grant of bail to the petitioner.



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4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner had kidnapped the minor victim girl of the de-facto complainant from her legal guardianship and married her in a temple at Arani and committed penetrative sexual assault on her. He further submitted that the minor victim girl has been secured and the petitioner has also been arrested on 06.09.2022 and the statement has also been recorded from the victim girl under 164 Cr.P.C., wherein, she had admitted that there was a love affair between the petitioner and herself and she also refused to go along with her parents, thereby, she was kept in the Kelly's home for about 23 days and later, she was handed over to her parents. however, 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 statement recorded under 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C.



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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 Mahila Court, Thiruvallur** 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;

[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



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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.

16.11.2022

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To

1. The Mahila Court,
Thiruvallur.
2. The Inspector of Police,
T-4, Maduravoyal Police Station,
C/I Thirumangalam All Women Police Station,
Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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