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Crl.OP.No.26625 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

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

Crl.OP.No.26625 of 2022

Lakshmi

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime No.415 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge petitioner on bail concerned in Crime No.415 of 2022 on
the file of the Inspector of Police, Deevattipatti Police Station, Salem
District.

For Petitioner : Mr.C.Prabakaran

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 28.09.2022 for the offences punishable under Sections 366 of IPC and Section 7 & 8 of POCSO Act, 2012, in Crime No.415 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that on 22.09.2022, her minor daughter, who was studying XII Standard, was found missing. Based on the complaint lodged by the defacto complainant, initially, a case has been registered as girl missing. Thereafter, during the course of investigation, it was found that A1, who was their neighbour, had kidnapped the minor girl and committed penetrative sexual assault on her. The allegation against the petitioner is that she is the mother of A1 in this case and she had abetted the A1 in the crime. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and she has falsely implicated in this case. He would submit that the petitioner was not aware of the love affair between



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her son and the daughter of the defacto complainant. The petitioner was under the impression that the victim is a major. He would further submit that since the respondent police was not able to secure the victim girl, they have remanded the petitioner, so as to compel the A1 to surrender before them. Other than the petitioner being a mother of A1, she has nothing to do with alleged offence. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner is the mother of A1 and she had abetted A1 to kidnap the victim girl. He would submit that now the victim has been secured and the statement of minor girl is recorded under Section 164 of Cr.P.C., wherein, she had stated that the petitioner only handed over her to the respondent police from A1. However, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.



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6. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsel, and also taking note of the statement recorded from the victim girl under Section 164 of Cr.P.C, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on her 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 Judicial Magistrate, Omalur** 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 daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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;



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[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.

03.11.2022

shk

To

1. The learned Judicial Magistrate, Omalur
2. The Inspector of Police,
Deevattipatti Police Station,
Salem District.
3. The Central Prison for Women,
Salem
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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