



Crl.O.P.No.26843 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

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

Crl.O.P.No.26843 of 2022

Saravanan

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.

(Crime No.182/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in connection
with the Crime No.182 of 2022 on the file of the respondent Police.

For Petitioner : Mr.S.Sivakumar

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 14.09.2022 for the offences punishable under Section 366 of IPC and Sections 5(1) r/w 6 of POCSO Act 2012, in Crime No.182 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the defacto complainant/ Arunkumar is that the accused had kidnapped his minor sister and committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner, aged about 19 years and the victim girl, aged about 16 years, hail from the same village and there was a relationship between them. When the relationship came to be known to the family members of the victim, they have harassed and reprimanded her, thereby, the victim girl had eloped with the petitioner. The petitioner without understanding the consequences and rigours of the POCSO Act, had taken the victim girl to his sister's house and had physical relationship with her. Later, on coming to know about the registration of the case, the petitioner has voluntarily



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surrendered before the respondent Police on the next day and he is in custody from 14.09.2022. He would also submit that the statement under Section 164 of Cr.P.C, has been recorded from the victim girl, wherein she has stated that there was a relationship between them. Hence, 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 had kidnapped the minor sister of the defacto complainant from her lawful guardianship and taken her to his sister's house and committed sexual assault on her. He would also submit that the statement under Section 164 Cr.P.C has also been recorded from the victim. 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 statement under Section 164 Cr.P.C., recorded from the victim girl.



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6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C., from the victim girl that there was a relationship between the petitioner and her, 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 Sessions Judge, Fast Track Mahila Court, Namakkal**, 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 Chennai and report before the Inspector of Police, Flower Bazaar Police Station 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;



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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.

14.11.2022

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To

- 1.The Sessions Judge,
Fast Track Mahila Court, Namakkal.
- 2.The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.
- 3.The Central Prison,
Salem.
- 4.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

vkr

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