



CrI.O.P.No.26809 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

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

CrI.O.P.No.26809 of 2022

Vasanth

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Magudanchavadi Police Station,
Salem.

Crime No.251 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in respect of the Crime No.251 of
2022 on the file of the respondent police.

For Petitioner : Mr.C.Ganesh Pandian

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 08.09.2022 for the offences punishable under Section girl missing @ 366 IPC and Section 7 read with Section 8 of POCSO Act, 2012 in Crime No.251 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the minor daughter of the defacto complainant and had committed penetrative sexual assault on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is aged about 19 years and the petitioner is a Hindu and the victim girl is a muslim, they both were classmates from middle school and they are known to each other for a long time. Thereafter their friendship developed into a love affair, when the same came to the knowledge of the defacto complainant, he had reprimanded the victim girl. Thereafter, on fear that they will be seperated, the victim girl had



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compelled the petitioner and both of them eloped and they had consensual physical affair. He would further submit that the petitioner being a youngster without understanding the rigours and consequences of POCSO Act, had physical relationship. He would also submit that major part of the investigation is over and the statement of the victim girl under Section 164 of Cr.P.C has also been recorded. He would also reiterate that the petitioner is in custody from 08.09.2022. Therefore, he prays for grant of bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner kidnapped the minor daughter of the defacto complainant and had committed penetrative sexual assault on her. Therefore, 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 the facts and circumstances of the case, the submissions made by the learned counsel and also the period of incarceration suffered by the petitioner and also perusing the statement recorded from the victim girl under Section 164 of Cr.P.C., wherein she has admitted the affair, 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, Principal POCSO Court, 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 daily at 10.30.a.m., for a period of one month and thereafter as and when required for interrogation.



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[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 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.

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A.D.JAGADISH CHANDIRA., J.
Sma

To

1. The Sessions Judge,
Principal POCSO Court, Salem.
2. The Inspector of Police,
Magudanchavadi Police Station,
Salem.
3. Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.

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