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Crl.O.P.No.26890 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Crl.OP.No.26890 of 2022

Srinath

... Petitioner

Vs.

State rep. By
The Inspector of Police,
A.W.P.S. Villupuram Police Station,
Villupuram District.
(Crime No.84 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail concerned in Crime No.84 of 2022
on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar for
Mr.G.Kaviyarasu

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 16.09.2022 for the offences punishable under Sections 366(A) of IPC r/w Section 5(1) and 6 of POCSO Act in Crime No.84 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.09.2022, the defacto complainant's minor daughter was missing from her home. Therefore, the defacto complainant lodged a complaint before the respondent police as girl missing. Initially, a case has been registered as girl missing in Crime No.84 of 2022. After enquiry, on 16.09.2022, the accused was arrested under Section 366(A) of IPC r/w Section 5(1) and 6 of POCSO Act. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner was forced by the victim girl to save her life, since her parents, arranged marriage for her against her wish. The petitioner and the victim girl, having love affair for the past two years. The victim girl and the petitioner eloped and stayed at their friends home. Thereafter, due to the



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compulsion of the police, both of them appeared before the respondent police. The statement of the victim girl under Section 164 of Cr.P.C., recorded before the learned Magistrate, wherein, she had stated that both of them having love affair and she had voluntarily gone alone with the petitioner. The petitioner is in prison from 16.09.2022. 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 mother of the victim girl lodged a complaint to the respondent police stating that her daughter, who is IX discontinue, was missing from her home. During the course of enquiry, the petitioner was arrested and the victim was secured. The statement of the victim under Section 164 of Cr.P.C., has been recorded, wherein, she had stated that the petitioner and the victim girl, having love affair for the past two years. Since her parents arranged marriage for her, she had forced the petitioner to save her life and both of them eloped. They lived as a husband and wife for 5 days. Hence, he vehemently opposed to grant bail to the petitioner.



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

6. Taking into consideration of the statement of the victim girl under Section 164 of Cr.P.C., and also considering the adolescence age of the petitioner and the victim girl, 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 Special Judge POCSO Court, Villupuram** 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;



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[b] the petitioner shall report before the respondent daily at 10.30 am 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 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.

08.11.2022

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M.NIRMAL KUMAR, J.
shk

To

1. The learned Special Judge POCSO Court, Villupuram
2. The Inspector of Police,
A.W.P.S. Villupuram Police Station,
Villupuram District.
3. The Central Prison,
Villupuram.
4. The Public Prosecutor,
High Court of Madras.

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