



WEB COPY



Crl.O.P.No.27121 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Crl.OP.No.27121 of 2022

Dinesh Kumar

... Petitioner

Vs.

State represented by
The Inspector of Police,
Attur Rural Police Station,
Attur Taluk,
Salem District.
Crime No.265 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in connection with Crime No.265 of
2022 on the file of the respondent police.

For Petitioner : Mr.A.Ramesh

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



CrI.O.P.No.27121 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.10.2022 for the offences punishable under Sections 366 of IPC r/w Section 3 & 4 of POCSO Act, 2012 in Crime No.265 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant and her husband are residing at Mumbai. They have two children, both the children are residing at Salem in their grand mother's home. While so, the defacto complainant and her husband arrived to their native place on 18.08.2022, where the defacto complainant, who is the mother of the minor girl, found her daughter missing. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the minor girl, who was longing for love since her parents had left out her to the care of her grand mother, had forced the petitioner to take her away to some other place. Hence, the petitioner had travelled with her from Salem to Chennai. During that time, in terms of friendly manner, the petitioner had touched the victim girl. Other than this, no other allegation is against the



Crl.O.P.No.27121 of 2022

petitioner as if he had committed penetrative sexual assault on her. He would submit that the petitioner has been falsely implicated in this case. 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 parents of the victim girl had lodged a complaint stating that their daughter is found missing. Thereafter, the victim girl was secured and she had given a statement under Section 164 of Cr.P.C., before the learned Magistrate about the traveling along with the petitioner and at that time, he had improper touch on her. He would submit in that statement, there is no allegation as if he had committed penetrative sexual assault on her and the medical report also confirms the same . However, he vehemently opposed to grant bail to the petitioner.

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.



Crl.O.P.No.27121 of 2022

WEB COPY

6. Taking into consideration of the facts and circumstances of the case and taking note of the fact that there is no allegation against the petitioner as if he had committed penetrative sexual assault on her and also considering the medical report, 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 as and when required for interrogation.

[c] the petitioner shall not abscond either during



Crl.O.P.No.27121 of 2022

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.

shk

07.11.2022



Crl.O.P.No.27121 of 2022

M.NIRMAL KUMAR, J.

shk

To

1. The learned Sessions Judge, Principal POCSO Court, Salem
2. The Inspector of Police,
Attur Rural Police Station,
Attur Taluk,
Salem District.
3. The Central Prison,
Salem
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.27121 of 2022

07.11.2022