



Crl.O.P.No.27791 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.27791 of 2022

Subashchandrabose

... Petitioner

Vs.

State rep. by,
The Inspector of Police,
Mecheri Police Station,
Salem District.

(Crime No.568 of 2022)

... Respondent

Prayer: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in Crime
No.568 of 2022 on the file of the respondent Police.

For Petitioner : Mr.C.Deepak Kumar

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 30.10.2022, for the offences punishable under Sections 376 & 506(ii) of IPC, in Crime No.568 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant is that she has completed M.A. degree and she is at home and that there was a marriage proposal from the petitioner, who belongs to the same village, and it was refused by the de-facto complainant's parents. Subsequently, the petitioner had approached the de-facto complainant saying that he loves her and if she does not love him, he threatened her that he will do away with her family members. On a particular day, when she was alone at home, the petitioner had committed rape on her by threatening her at knife point. On 05.10.2022, the de-facto complainant got stomach pain and she was taken to the Omalur Government Hospital, where she has delivered a female baby. Further averment is that when she was pregnant, in order to avoid the other people knowing about it, she had tied a cloth tightly over her stomach and



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concealed her pregnancy. Thereafter, the de-facto complainant's parents along with others went to the accused house and asked him to marry the de-facto complainant, whereas, the family members of the accused had refused and threatened them saying that they will kill and bury them. Hence the case.

3. The learned counsel appearing for the petitioner would submit that reading of the First Information Report would show that it is a fabricated case. He would further submit that the de-facto complainant is a matured lady aged about 24 years and it is strictly improbable and impossible that she could conceal her pregnancy for 10 months and reported it to her parents only after she had delivered the female child. He would also submit that the fact remains that the family members of the de-facto complainant suspecting that the petitioner is responsible for the pregnancy had compelled the petitioner to marry her and when it was refused, the parents of the de-facto complainant along with the relatives have assaulted the petitioner and his parents, in respect of which, a case in Crime No.518 of 2022 was registered by the respondent Police for the offence under Section 506(ii) IPC, based on the complaint given by the petitioner's brother against the family members of



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the de-facto complainant. He would also submit that only as a counter blast, after a period of 19 days, the present case has been foisted as against the petitioner and the petitioner is in custody from 30.10.2022 and thereby, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that when the marriage proposal of the accused has been rejected by the family members of the de-facto complainant, he has threatened her to love him and when the de-facto complainant was alone at her home, by threatening her at knife point, had committed rape on her. Hence, he would oppose for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the First Information Report.

6. Taking into consideration the facts and circumstances of the case



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and the submissions made by the learned counsel and also considering the averments in the complaint, 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 Judicial Magistrate No.II, Mettur**, 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 Thiruvallur and report before the Inspector of Police, Thiruvallur Town Police Station, everyday at 10.30 a.m. and 5.30p.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence



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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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To

1. The Judicial Magistrate No.II,
Mettur.
2. The Inspector of Police,
Mecheri Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Inspector of Police,
Thiruvallur Town Police Station,
Thiruvallur District.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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