



Crl.O.P.No.28016 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

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

Crl.O.P.No.28016 of 2022

Dhanasekar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
AWPS Velur Police Station,
Namakkal District.
Crime No.10 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.10 of
2022 on the file of the respondent police.

For Petitioner : Mr.B.Vasudevan

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 19.10.2022 for the offences punishable under Sections 366 IPC and Section 5(I), 5(j)(ii), 6, 21(1) of POCSO Act, 2012 and 9 of Prohibition of Child Marriage Act, 2012 in Crime No.10 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Sumathi, Social Welfare Officer, Paramathi, Namakkal is that the accused had kidnapped the minor victim girl aged about 16 years on 19.11.2020 and had performed child marriage with her on 20.11.2020 and had also committed penetrative sexual assault on her, due to which, she became pregnant. On information, the complaint was registered. 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 23 years and the victim is aged about 16 years and they both were neighbours and they have



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grown up together and thereafter there was a love affair between them. He would further submit that the petitioner without understanding the rigours and consequences of POCSO Act, had entered into physical affair with the victim minor girl and committed penetrative sexual assault on her. 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 further submit that, even as per the prosecution, the occurrence is said to have happened 2 years ago. He would also reiterate that the petitioner is in custody from 19.10.2022. 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 victim girl and had committed penetrative sexual assault on her, due to which, the victim girl became pregnant and delivered a boy baby. Therefore, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials



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available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.

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., 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 **Sessions (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 report before the



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respondent police daily at 10.30.a.m., for a period of two weeks and thereafter on every Saturday 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;

[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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15.11.2022



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A.D.JAGADISH CHANDIRA., J.

Sma

To

1. The Sessions (Fast Track) Mahila Court,
Namakkal
2. The Inspector of Police,
AWPS Velur Police Station,
Namakkal District.
3. Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.

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