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Crl.O.P.No.27958 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

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

Crl.O.P.No.27958 of 2022

Vasanth Kumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai.

(Crime No.424/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in connection
with the Crime No.424 of 2022 on the file of the respondent Police.

For Petitioner : Mr.T.Shanmugam

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 21.10.2022 for the offences punishable under Section 366 (A) IPC and Section 11(4) r/w 12 of Protection of Children from Sexual Offences Act, 2012, in Crime No.424 of 2022 on the file of the respondent Police, seeks bail.

2. On the complaint given by one Balaraman that his brother's daughter aged about 16 years was found missing, a case in crime No.424 of 2022 has been registered by the respondent Police for "girl missing". During the course of investigation, it came to light that the accused had kidnapped the victim girl for the purpose of marrying her and committed sexual assault on her, thereby, the case has been altered to one under Section 366 (A) IPC and Section 11(4) r/w 12 of Protection of Children from Sexual Offences Act, 2012. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner, who is aged about 21 years, is an innocent person and a false complaint has been given as against him. He further submitted that the petitioner was having a love affair with the victim minor girl, aged about 16



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years and when the family members of the victim girl coming to know about the same, they reprimanded the victim girl, due to which, the victim on her own volition had gone along with the petitioner to marry him. He also submitted that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had eloped with the minor victim girl. He also submitted that the petitioner understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had stated that only on her own volition, she came with the accused and there is no averment as against the petitioner, as if he had committed sexual assault on her. He further submitted that the petitioner is in custody from 21.10.2022, hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner had kidnapped the minor victim girl and committed sexual assault on her. He further submitted that the minor victim girl has been secured and the statement has also been recorded from her under 164 Cr.P.C., wherein, she had admitted that there was a love affair between the petitioner and herself. He further submitted that the petitioner has also been arrested on 21.10.2022. However, he opposed to



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grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record including the statement recorded under 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C. from the victim girl that the victim, on her own volition has gone along with the petitioner, 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 Act Cases), Thiruvannamalai**, and on further conditions that:

[a] the sureties shall affix their photographs and



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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, 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 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.

21.11.2022

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To



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1. The Special Judge (POCSO Act Cases),
Thiruvannamalai.
2. The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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