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Crl.O.P.No.28074 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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

Crl.O.P.No.28074 of 2022

Vignesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Alangayam Police Station,
Alangayam, Thirupathur District.

(Crime No.108 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.108
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.Vinodh Kumar

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



Crl.O.P.No.28074 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.09.2022 in Crime No.108 of 2022 which is initially registered for "girl missing" and later, altered to the offence punishable under Sections 363, 366, 376(2)(n) of IPC & Sections 5(l), 5(j)(ii) and 6 of Protection of Children from Sexual Offences Act, 2012, on the file of the respondent Police, seeks bail.

2. On the complaint given by the de-facto complainant that her daughter aged about 17 years was found missing, a case in crime No.108 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 and committed penetrative sexual assault on her, due to which, she become pregnant. Thereby, the case has been altered to the offence punishable under Sections 363, 366, 376(2)(n) of IPC & Sections 5(l), 5(j)(ii) and 6 of Protection of Children from Sexual Offences Act, 2012. Hence the case.



Crl.O.P.No.28074 of 2022

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3. The learned counsel appearing for the petitioner submitted that the petitioner, who is aged about 23 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 daughter of the de-facto complainant/victim minor girl, aged about 17 years and when the family members of the victim girl forced the victim to marry someone, against her choice, the victim on her own volition had eloped with the petitioner. 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. He further submitted that the petitioner is in custody from 26.09.2022. 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 of the de-facto complainant from her legal guardianship and committed penetrative sexual assault on her, due to which she become



Crl.O.P.No.28074 of 2022

pregnant. He further submitted that the minor victim girl has been secured and handed over to her parents and the statement has also been recorded from the victim girl under 164 Cr.P.C., wherein, she had admitted that there was a love affair between the petitioner and herself and she on her own volition gone along with the petitioner. He also submitted that the petitioner was arrested on 26.09.2022, however, he opposed to 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 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



Crl.O.P.No.28074 of 2022

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 for Exclusive Trial of Cases under POCSO Act, Vellore** 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 Police everyday 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]***;



Crl.O.P.No.28074 of 2022

[f] If the accused thereafter abscond, a fresh FIR
can be registered under Section 229A IPC.

16.11.2022

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To

1. The Special Judge for Exclusive Trial of Cases under POCSO Act,
Vellore.
2. The Inspector of Police,
Alangayam Police Station,
Alangayam, Thirupathur District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.28074 of 2022

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.28074 of 2022

16.11.2022