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CrI.O.P.No.28317 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM

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

CrI.O.P.No.28317 of 2022

Gangadharan @ Manoj

... Petitioner

Vs.

State rep. by,
The Inspector of Police,
Edapadi Police Station,
Salem District.
(Crime No.50/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in Crime
No.50/2022 on the file of the respondent.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.10.2022 for the offences punishable under Section 366 of IPC, Section 9 of Prohibition of Child Marriage Act and Section 5(1) read with 6 of POCSO Act in Crime No.50 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant Chitra is that her minor daughter aged 17 years was found missing from 28.01.2022 and despite due search she was not found and the *de-facto* complainant suspecting that the petitioner would have kidnapped her daughter had given a complaint. Based on the complaint, originally the case was registered for Girl Missing in Crime No.50 of 2022. Later during the course of the investigation, it was found that the petitioner had kidnapped the minor victim girl and tied thalli on 01.03.2022 and lived with the minor victim girl as husband and wife for 7 months and committed repetitive penetrative sexual assault. Then, the case was altered in to Sections 366 of



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IPC, Section 9 of Prohibition of Child Marriage Act and Section 5(1) read with 6 of POCSO Act.

3. The learned Counsel for the petitioner would submit that petitioner is an innocent person. He would submit that the petitioner and the minor victim girl are residents of same village, grown up together and on coming to know about their love affair, the victim's family reprimanded her and she had compelled the petitioner and both of them eloped and lived together as husband and wife. Later they surrendered before the police and victim was handed over. He would submit that the petitioner understands that a statement has been recorded from the victim girl under Section 164 of Cr.P.C., wherein she had admitted to the affair between the petitioner and herself for several years and that she had gone along on her own volition. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner kidnapped the minor victim girl aged about 17 years and committed repetitive penetrative sexual assault on



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her. He would further submit that the 164 statement has also been recorded from the victim girl. Hence, he opposed for grant of 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 164 statement recorded from the victim girl.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also taking note of the 164 statement recorded from the victim girl, 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 **learned Sessions Judge, Principal POCSO Court, Salem**, and on further conditions that:



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[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]*;

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

18.11.2022

mpl



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A.D.JAGADISH CHANDIRA.,J.

mpl

To

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

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