



Crl.O.P.No.28604 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

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

Crl.O.P.No.28604 of 2022

Sampath

... Petitioner

Vs.

The State represented by,  
The Inspector of Police,  
Karipatty Police Station,  
Salem District.

(Crime No.245/2022).

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleased to enlarge the petitioner on bail pending investigation in connection  
with the Crime No.245 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 24.08.2022 in connection with Crime No.245 of 2022 registered for "Girl Missing" and later, altered to the offences punishable under Section 366 IPC and Section 5(l) r/w 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 de-facto complainant that his daughter aged about 17 years was found missing, a case in crime No.245 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 penetrative sexual assault on her, thereby, the case has been altered to one under Section 366 IPC and Section 5(l) r/w 6 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



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petitioner and the minor victim girl are loving each other for the past two years and when the family members of the victim girl coming to know about the same, they had reprimanded the victim girl and made the marriage arrangements and forced her to marry someone, against her choice, thereby, the victim eloped from her house and came to the petitioner's house. 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, on coming to know about the case registered by the respondent police, by contacting Child Help Line, has sent the victim girl to the custody of Child Welfare Committee. He further 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 24.08.2022, 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 penetrative sexual assault on her. He further



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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 and on her own volition she gone along with the petitioner. He further submitted that the petitioner has also been arrested on 24.08.2022. 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 and the petitioner was loving each other and she, on her own volition has gone along with the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner.



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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 Sessions Judge, Principal POCSO Court, Salem**, 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. 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**



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**5560];**

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

**22.11.2022**

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To

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



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**A.D.JAGADISH CHANDIRA.,J.**

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