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CrI.O.P.No.28733 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

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

CrI.O.P.No.28733 of 2022

Ramesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Deevattipatti Police Station,
Salem District.
Crime No.415 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.415 of
2022 on the file of the respondent police.

For Petitioner : Mr.C.Prabakaran

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 29.09.2022 for the offences punishable under Section 366 of IPC and Section 7 & 8 of POCSO Act, 2012 in Crime No.415 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Amudha Rani is that, her minor daughter aged about 16 years was found missing. Based on the complaint, a case was registered under section "Girl Missing", later it was found that the petitioner had kidnapped her minor daughter from the custody of her mother and thereby the case was altered under Sections 366 of IPC and Section 7 & 8 of POCSO Act, 2012 and the petitioner was arrested on 29.09.2022. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner is aged about 27 years and the victim girl is aged about 17 years, they both are neighbours and grown up



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together. Thereafter their friendship developed into a love affair, when the same came to the knowledge of the defacto complainant, she had reprimanded the victim girl. Thereafter, both got eloped. Later, coming to know about the registration of case, petitioner had surrendered before the respondent police and the petitioner was arrested on the same day. He understands that the statement of the victim girl under Section 164 of Cr.P.C has been recorded, wherein she had stated that both of them have eloped and stayed in his friend's house for three days and during such time, the petitioner has not committed any sexual assault on the victim girl. He would also reiterate that the petitioner is in custody from 29.09.2022. 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 daughter of the defacto complainant. He would fairly submit that as per Section 164 of Cr.P.C Statement there is no allegation of sexual assault on the victim girl. However, he vehemently opposed to grant bail to the petitioner.



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5. Heard both the learned counsel and perused the materials 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., wherein she has admitted the affair and there is no allegation of sexual assault, 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 Judicial Magistrate Court at Omalur** 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 daily 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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A.D.JAGADISH CHANDIRA., J.
Sma

To

1. The Judicial Magistrate Court,
Omalur.
2. The Inspector of Police,
Deevattipatti Police Station,
Salem District.
3. Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.

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