



Crl.O.P.No.28713 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.28713 of 2022

Palanisamy

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Woman Police Station,
Mettur, Salem District.

(Crime No.13/2022).

... 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.13 of
2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.S.Vinoth KUMar
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.08.2021 for the offences punishable under Sections 366 IPC and Section 9 of Prohibition of Child Marriage Act 2006 and Sections 5(1), 5(j)(ii) r/w 6 of POCSO Act in Crime No.13 of 2022 on the file of the respondent police, seeks bail.

2. Based on the information received from the Hospital, a case in Crime No.13 of 2022 has been registered by the respondent Police against the petitioner that he had kidnapped the minor victim girl and married her and also committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are hail from the village and the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed an affair with the minor victim girl and had married her in temple. He would further submit that the victim girl become pregnant and when she has been taken to hospital,



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the complaint has been lodged against the petitioner, by the hospital staff. He would also submit that now the victim girl has delivered a child born died. He also stated that the petitioner understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had admitted that there was a love affair between them and only on her insistence, the petitioner had taken her with him and there is no averment as against the petitioner, as if he had committed penetrative sexual assault on her. He further submitted that the petitioner is in custody from 16.08.2021, hence, he prayed for grant of bail to the petitioner.

4.The Government Advocate (Crl.Side) appearing for the respondent police submitted that based on the information received from the hospital, a case in Crime No.13 of 2022 has been registered against the petitioner for marrying the minor girl and for committing penetrative sexual assault on her. He would further submit that the petitioner has been arrested on 16.08.2021. He would also submit that the 164 statement has also been recorded from the victim girl. Hence, he opposed to grant bail to the petitioner.

5.Heard the learned counsel for the petitioner and the learned



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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 taking note of the 164 statement recorded 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 his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Mettur, Salem District** 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 on every Wednesday at 10.30 a.m. for a



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period of three months and thereafter, appear before the trial Court on all hearing dates;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond 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]***; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8. Post the matter on 20.12.2022 for appearance of the petitioner and the victim girl.

07.12.2022

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T.V.THAMILSELVI,J.

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To

- 1.The Judicial Magistrate No.I,
Mettur.
- 2.The Inspector of Police,
All Woman Police Station,
Mettur, Salem District.
- 3.The Central Prison,
Salem.
- 4.The Public Prosecutor,
High Court of Madras.

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