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Crl.O.P.Nos.28894 & 28896 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM

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

Crl.OP.Nos.28894 & 28896 of 2022

1.Sudaram ... Petitioner in Crl.O.P.No.28894 of 2022

1.Balamurugan
2.Kalaivani ... Petitioner in Crl.O.P.No.28896 of 2022

Vs.

State Rep. By its
The Inspector of Police,
Omalur Police Station.
Crime No.334 of 2022

... Respondent in both Crl.O.P's

COMMON PRAYER: Criminal Original Petitions filed under Section 439

of Cr.P.C., pleased to enlarge the petitioners on bail in Crime No.334 of 2022 on the file of the Omalur Police Station, Salem District pending investigation of the case.

For Petitioners in both Crl.O.P's : Mr.E.Elango

For Respondent in both Crl.O.P's : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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COMMON ORDER

The petitioner in Crl.O.P.No.28894 of 2022, who was arrested and remanded to judicial custody on 30.09.2022 for the offences punishable under Sections 366 of IPC and Section 16, 17, 5(1) 6(1) of POCSO Act 2012 and the petitioners in Crl.O.P.No.28896 of 2022, who were arrested and remanded to judicial custody on 04.10.2022 for the offences punishable under Sections girl missing @ into 366 of IPC and 7, 8, 16, 17 of POCSO Act, 2012 @ into 366 of IPC and 16, 17, 5(1) 6(1) of POCSO Act, 2012 respectively in Crime No.334 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant's minor daughter, who is aged about 17 years was found missing. Therefore, he had lodged a complaint before the respondent police and based on which, a case has been registered in Crime No.334 of 2022 as girl missing. Later, during the course of investigation, it was found that one Manikandan, who is the friend and brother in law of the petitioners, had eloped with the victim girl. The allegation against the petitioners is that they have abetted A1 to kidnap the victim girl. Hence, the case.



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3. The learned counsel appearing for the petitioners would submit that the petitioner in Crl.O.P.No.28894 of 2022 is arrayed as A3 and the petitioners in Crl.O.P.No.28896 of 2022 are arrayed as A4 & A5 respectively. He would further submit that there was a love affair between the victim girl and A1 and without the knowledge of the petitioners and their family members, A1 had eloped with the daughter of the defacto complainant, After coming to know about the registration of case, A1 had surrendered before the respondent police with the victim girl. He would further submit that statement under Section 164 of Cr.P.C has been recorded from the victim girl wherein, she has not made any allegation against A1 as if he had committed sexual assault on her. He would submit that the major part of the investigation has also been over. Therefore, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the A1 had kidnapped the minor victim girl and committed penetrative sexual assault on her. The petitioners have abetted the A1 to kidnap the victim girl. He would submit that statement of minor girl is recorded under Section 164 of Cr.P.C., wherein, she had not made any



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allegation against the A1 as if he had committed sexual assault on her.

However, he vehemently opposed to grant bail to the petitioners.

5. Heard both the learned counsel and perused the materials including the statement recorded from the victim girl under Section 164 of Cr.P.C.

6. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and also taking note of the fact that the statement recorded from the victim girl under Section 164 of Cr.P.C., this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioners are ordered to be released on bail on their 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 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 petitioners shall report before the **respondent daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation;**

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];**



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A.D.JAGADISH CHANDIRA., J.

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

24.11.2022

shk

To

1. The learned Sessions Judge, Principal Court, Salem
2. The Inspector of Police,
Omalur Police Station.
3. The Central Jail,
Salem
4. The Public Prosecutor,
High Court of Madras.

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