



Crl.O.P.No.28867 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.No.28867 of 2022

Jayakanthan

... Petitioner

Vs.

State rep by,
The Inspector of Police,
Keelaiyur Police Station,
Nagapattinam District.
(Crime No.234 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.234 of 2022 pending on
the file of the respondent.

For Petitioner : Mr.P.Muthamizhselvakumar

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 03.11.2022 for the offences punishable under Sections 366, 342, 506(i) of IPC r/w 6 r/w 5(1) r/w 16,17, of Protection of Children from Sexual Harassment Act, 2012 in Crime No.234 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant had given a complaint before the respondent police that his daughter was found missing. Based on which, a case has been registered as girl missing. Later, during the course of investigation, it is found that A1 had kidnapped the minor girl from the school and had committed penetrative sexual assault on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been unnecessarily roped in this case, since he happens to be the maternal uncle of A1. He would submit that without the knowledge of the petitioner and his family members, A1 had eloped with the daughter of the defacto complainant. Since the respondent



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police were unable to trace & secure them, they had registered a false case against the petitioner as if he had abetted the A1 to kidnap the victim girl. He would submit that A1 in this case has been arrested and released on bail. He would further submit that statement under Section 164 of Cr.P.C has been recorded from the victim girl wherein, there is no specific allegation of sexual assault. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the A1 had kidnapped the minor victim girl from the school and had committed penetrative sexual assault on her. The allegation against the petitioner is that he had abetted A1 to kidnap the victim girl. He would submit that statement of minor girl is recorded under Section 164 of Cr.P.C., wherein, there is no specific allegation of sexual assault. However, he vehemently opposed to grant bail to the petitioner.

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.



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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 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 Special Court under POCSO Act, Nagapattinam** 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 daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation until further orders;**



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[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.

shk

To

1. The learned Special Court under POCSO Act, Nagapattinam
2. The Inspector of Police,
Keelaiyur Police Station,
Nagapattinam District.
3. The District Prison,
Nagapattinam
4. The Public Prosecutor,
High Court of Madras.

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