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Crl.O.P.No.28875 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.28875 of 2022

T.Subash

... Petitioner

Vs.

The State Rep by
The Inspector of Police,
Thachampet Police Station,
Tiruvannamalai District.
Crime No.180 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.180 of 2022 pending
investigation on the file of the respondent.

For Petitioner : Mr.Sathiyaraj.E

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 17.10.2022 for the offences punishable under Sections 363, 366, 376(2)(n) of IPC r/w Sections 5(1) r/w 6(1) of Protection of Children from Sexual Offence Act, 2012 r/w Section 9 of Child Marriage Act in Crime No.180 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 her 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 petitioner had kidnapped the minor victim girl and had committed penetrative sexual assault on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are neighbours and that they are having love affair for the past 5 years. He would submit that the petitioner without understanding the consequences and rigours of Prohibition of Child Marriage Act and POCSO Act, had eloped with the victim girl. After coming to know



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about the registration of case, the petitioner 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, it is stated that she had gone voluntarily along with the petitioner and it is not the case of kidnapping. He would submit that the major part of the investigation has also been over. 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 petitioner had kidnapped the minor victim girl and had committed penetrative sexual assault on her. He would submit that statement of minor girl is recorded under Section 164 of Cr.P.C., wherein, it is stated that she had gone voluntarily along with the petitioner. 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 for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai** 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 until further orders;**

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



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[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.

24.11.2022

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A.D.JAGADISH CHANDIRA., J.

shk

To

1. The learned Special Court for Exclusive Trial of Cases
under POCSO Act, Tiruvannamalai
2. The Inspector of Police,
Thachampet Police Station,
Tiruvannamalai District.
3. The Central Prison,
Vellore
4. The Public Prosecutor,
High Court of Madras.

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