



Crl.OP.No.29460 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

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

Crl.OP.No.29460 of 2022

Rajkumar

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Srimushnam Police Station,
Cuddalore District.
(Crime No.388 of 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 case in Crime
No.388 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Bharathi Rajan

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 10.11.2022 for the offences punishable under Sections 366(A) of IPC and Sections 3(a) and 4 of the POCSO Act, in Crime No.388 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that on 09.09.2022, the accused had dragged her minor daughter by hands and kidnapped her. Thereby, she had given a complaint before the respondent police on 10.09.2022 to take action against the accused. Based on which, initially, a case has been registered in Crime No.388 of 2022 for the offence under Section 366(A). Later, during the course of investigation, it was found that the accused had kidnapped the minor victim girl and had committed repeated penetrative sexual assault on her. Thereafter, the case has been altered into one under Sections 3(a) and 4 of the POCSO Act. Hence, the case.

3. The learned counsel appearing for the petitioner would submit



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that the petitioner and the victim girl hail from the same village and belongs to same community. He would further submit that there was a love affair between the petitioner and the victim girl. When the same was questioned by the parents of the victim girl, the petitioner and the victim girl had eloped from the house. He would submit that the petitioner without understanding the consequences and rigours of POCSO Act, had eloped with the victim girl. After coming to know 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 and that the medical examination in respect of the petitioner and the victim has also been completed. 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 now the victim was secured and the statement of minor girl has been recorded under Section 164 of Cr.P.C. Hence, he vehemently opposed to



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grant bail to the petitioner.

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 of the facts and circumstances of the case and the submissions made by the learned counsel, and also taking note of the statement recorded from the victim girl under Section 164 of Cr.P.C, this Court is inclined to grant bail to the petitioner with certain conditions.

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 Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore** 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;



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[b] the petitioner shall stay at Chennai and report before the Flower Bazar Police Station daily at 10.30 am for a period of four weeks and thereafter report before the respondent police daily at 10.30 am 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.

30.11.2022

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A.D.JAGADISH CHANDIRA,J.
shk

To

1. The learned Sessions Judge, Special Court
for Exclusive Trial of Cases under POCSO Act,
Cuddalore.
- 2.The Inspector of Police,
Srimushnam Police Station,
Cuddalore District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

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