



CrI.O.P.No.29555 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

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

CrI.O.P.No.29555 of 2022

Sarathkumar

... Petitioner

Vs.

The State represented by
Inspector of Police,
Tholasampatty Police Station,
Salem District.
(Crime No.194 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail concerned in Crime No.194 of 2022
on the file of the Inspector of Police, Tholasampatty Police Station, Salem
District.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.side)



WEB COPY



CrI.O.P.No.29555 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.10.2022 for the offences punishable under Section 366 of IPC and Section 5(1) read with 6 of POCSO Act, 2012 in Crime No.194 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant Nagaraj is that on 02.10.2022 his minor daughter went missing and initially, a case in Crime No.194 of 2022 for offences under Section Girl Missing was registered. Later upon investigation, it was found that the petitioner herein had kidnapped the minor victim girl and had committed penetrative sexual assault on her. Hence, the case was altered in to Section 366 of IPC and Sections 5(1) read with 6 of POCSO Act.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act, had affair with the victim minor girl. He would further submit that the petitioner is aged about only 22 years and the petitioner is prepared to abide by any



Crl.O.P.No.29555 of 2022

stringent condition imposed by this Court. Hence, 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 kidnapped the minor girl from her lawful guardian-ship and committed penetrative sexual assault on her. He would further submit that the 164 statement has also been recorded from the victim girl. Hence, he opposed for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned 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 the submissions made by the learned counsel and also taking note of the 164 statement recorded from the victim girl wherein, she had stated that there was a love affair between them, this Court is inclined to grant bail to the petitioner.



Crl.O.P.No.29555 of 2022

WEB COPY

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 **Judicial Magistrate Court Omalur**, 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 everyday at 10.30 a.m., for a period of three weeks and thereafter on every Saturday at 10.30 a.m., 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;



Crl.O.P.No.29555 of 2022

[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.

01.12.2022

mpl



WEB COPY



Crl.O.P.No.29555 of 2022

A.D.JAGADISH CHANDIRA.,J.

mpl

To

1. The Judicial Magistrate Court
Omalur.
2. The Inspector of Police,
Tholasampatty Police Station,
Salem District.
3. Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.29555 of 2022

01.12.2022