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Crl.O.P.No.4325 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

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

Crl.O.P.No.4325 of 2023

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... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Ambattur,
Tiruvallur.

(Crime No.14 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in connection
with the Crime No.14 of 2023 on the file of the respondent Police.

For Petitioner : Mr.M.Nagoor Moideen

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.01.2023, in connection with Crime No.14 of 2023 registered for "Girl Missing" and altered for the offences punishable under Section 366 IPC and Section 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in on the file of the respondent Police, seeks bail.

2. On the complaint given by the *de-facto* complainant that her daughter, aged about 17 years was found missing, a "girl missing" case in Crime No.14 of 2023 was registered by the respondent Police. During the course of investigation, it came to light that the accused had kidnapped the minor victim girl, aged about 17 years and committed penetrative sexual assault on her, thereby, the case has been altered to one under Section 366 IPC and Section 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, aged about 20 years, is an innocent person and a false complaint has been given as against him. He further submitted that the petitioner was



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having a love affair with the minor victim girl and the family members of the victim girl coming to know about the same, they reprimanded the victim girl and thereby, the victim, out of depression, had come out of her house and eloped along with the petitioner. He also submitted that the petitioner and the victim girl stayed out for 3 days and later, on coming to know about the registration of the case, they surrendered before the respondent Police. He also submitted that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had taken the minor victim girl with him. He also submitted that the petitioner has not committed any penetrative sexual assault on the victim girl and he further submitted that the petitioner, understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she has not made any allegation of sexual assault against him. He further submitted that the petitioner is in custody from 16.01.2023, hence, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner had kidnapped the minor victim girl and committed penetrative sexual assault on her. He further



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submitted that the minor victim girl has been secured and the statement has also been recorded from her under 164 Cr.P.C. However, he oppose for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record including the statement recorded under 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C. from the victim girl that the victim and the petitioner were loving each other and she, on her own volition has gone along with the petitioner and also considering the fact that there is no specific allegation made against the petitioner, as if, he has committed penetrative sexual assault on her, 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.10,000/- (Rupees Ten thousand only)**



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with **two sureties**, each for a like sum to the satisfaction of the **learned**

District Mahila Judge, Tiruvallur, 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 two 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;

[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]**;



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

14.03.2023

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To

1. The District Mahila Court,
Tiruvallur.
2. The Inspector of Police,
All Women Police Station,
Ambattur, Tiruvallur District.
3. The Central Prison,
Tiruvallur.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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