



Crl.O.P.No.8491 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

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

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Manikandan

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Thiruvavarur District.

Crime No.08 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,

pleased to release the petitioner on bail in Crime No.08 of 2023 pending on
the file of the respondent police.

For Petitioner : Mr.G.Balachandar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial
custody on 07.03.2023 for the offences punishable under Sections 363,
366(A) of IPC r/w Sections 5(1), 6 of Protection of Children from Sexual



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Offences Act and Section 9 of Child Marriage Act in Crime No.08 of 2023
on the file of the respondent police, seeks bail.

2. On the complaint given by the *de-facto* complainant/ Parimal that her daughter, aged about 17 years, who is studying 12th standard, was found missing, a "girl missing" case in Crime No.08 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 repetitive penetrative sexual assault on her, thereby, the case has been altered to one under Sections 363, 366(A) of IPC r/w Sections 5(1), 6 of Protection of Children from Sexual Offences Act and Section 9 of Child Marriage Act. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, aged about 19 years, is an innocent person and a false complaint has been given as against him. He further submitted that the petitioner was having a love affair with the minor victim girl, aged about 17 years and the family members of the victim girl coming to know about the same, have reprimanded the victim girl and thereby, the victim, out of depression, had



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come out of her house and eloped along with the petitioner. 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 07.03.2023, hence, he prays for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner had kidnapped the minor victim girl, taken her to Coimbatore and had committed penetrative sexual assault on her. He further submitted that the minor victim girl has been secured and the statement has also been recorded from her under 164 Cr.P.C., wherein, she has deposed that she had gone along with the petitioner on her own accord. However, he opposed for grant of bail to the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record including the statement recorded under 164 Cr.P.C from the minor victim girl.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the statement recorded under 164 Cr.P.C from the minor victim girl, 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.10,000/- (Rupees Ten thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Sessions Judge, Fast Track and Mahila Court, Thiruvavarur**, 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 Coimbatore, report before the Inspector of Police, Peelamedu Police Station, everyday at 6.30 p.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]*;

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

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1. The Sessions Judge,
Fast Track and Mahila Court, Thiruvarur.
2. The Inspector of Police,
All Women Police Station,
Thiruvarur District.
3. The District Prison, Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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