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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.06.2023

CORAM:

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

Crl.O.P.No.11842 of 2023

Sakthivel

.. Petitioner

/versus/

The State rep.by  
The Inspector of Police,  
Karimangalam Police Station,  
Dharmapuri District  
(Crime No138 of 2023)

.. Respondent

**Prayer:** Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation in Crime No.138 of 2023 on the file of the respondent police.

For petitioner : Mr.C.Prabakaran

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 16.04.2023, in connection with Crime No.138 of 2023 registered for “Girl Missing” and altered for the offences punishable under Sections 366, 363 of IPC & 5(l) r/w 6(1) of Protection of Children from Sexual Offences Act, 2012, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the de-facto complainant/Srinivasan, is that his minor daughter, aged 17 years, was found missing from 15.04.2023. Based on the complaint, a case in Crime No.138 of 2023 was registered for girl missing. During the course of investigation, it came to light that the petitioner had kidnapped the minor victim girl and committed penetrative sexual assault on her. Thereby, the case has been altered to the offence punishable under Sections 366, 363 of IPC & 5(l) r/w 6(1) of Protection of Children from Sexual Offences Act, 2012. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that the petitioner, who is aged about 21 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 victim minor girl, aged about 17 years and when the family members of the victim girl came to know about the same, the victim girl on her own volition had eloped 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 eloped with the minor victim girl. He also submitted that the petitioner understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had stated that only on her own volition, she came with the accused and there is no averment as against the petitioner, as if he had committed sexual assault on her. He further submitted that the petitioner is in custody from 16.04.2023, hence, he prays for grant of bail to the petitioner.



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4.Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner had kidnapped the minor victim girl and 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 had admitted that there was a love affair between the petitioner and herself. He also submitted that the investigation is still pending. Hence, he opposed to grant 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 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, on her own volition has gone along with the petitioner, 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)** with **two sureties**, each for a like sum to the satisfaction of the **learned Sessions Judge, Fast Track Mahila Court, Dharmapuri**, 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 stay at Chennai and report the Inspector of Police, R6, M.G.R.Nagar Police Station, everyday 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



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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.

**01.06.2023**

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To

- 1.The Sessions Judge,  
Fast Track Mahila Court, Dharmapuri
- 2.The Inspector of Police,  
Karimangalam Police Station,  
Dharmapuri District
- 3.The Sub Jail, Dharmapuri.
- 4.The Public Prosecutor, High Court, Madras.

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**A.D.JAGADISH CHANDIRA,J.**

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**Crl.O.P.No.11842 of 2023**

**A.D.JAGADISH CHANDIRA, J.**

The Criminal Original Petition is listed today under the caption “for being mentioned”.

2. Learned counsel appearing for the petitioner submitted that this Court, by an order dated 01.06.2023, has granted bail to the petitioner. However, a typographical error has crept in the para 7(b) of the order copy.

3. Considering the above submission, the error is corrected and the para 7(b) of the order shall be read as follows:

“7(b). the petitioner shall stay at Chennai and report before the Inspector of Police, R-10, M.G.R.Nagar Police Station, everyday at 10.30 a.m., until further orders;

The other conditions imposed by this Court in Crl.O.P.No.11842 of 2023 on 01.06.2023 shall remain unaltered.



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**A.D.JAGADISH CHANDIRA, J.**

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4. Registry is directed to issue a fresh order copy today ie., on  
08.06.2023.

**08.06.2023**

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**Note: Issue order copy on 08.06.2023**

**Crl.O.P.No.11842 of 2023**