



WEB COPY



CrI.O.P.No.12408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

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

CrI.O.P.No.12408 of 2023

Vengat

... Petitioner

Vs.

State rep. by
The Inspector of Police
Valangaiman Police Station,
Thiruvarur District.
Crime No.216 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner pending investigation in Crime No.216
of 2023, on the file of the respondent herein.

For Petitioner : Mr.Swamisubramanian

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 17.04.2023, for the offences punishable under Sections 366(A) of IPC, 6,
5(I) of POCSO Act in Crime No.216 of 2023 on the file of the respondent
police, seeks bail.



2. The case of the prosecution is that initially the case came to be registered in Crime No.216 of 2023 for “girl missing” on the complaint of one Marimuthu alleging that his minor daughter was missing from 07.04.2023. Thereafter, during the course of investigation, it came to light that the petitioner had kidnapped the daughter of the defacto complainant and committed penetrative sexual assault on her. Hence, the offences were altered as stated above.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl are known to each other for a long time and there was a love affair between them. Since it came to the knowledge of the parents of the victim girl, she came out from her house and joined the petitioner and that the petitioner and the victim girl without understanding the consequences of POCSO Act, eloped from their house and stayed in her friend's house. Later, on coming to know about the registration of the case, both of them surrendered before the respondent and the petitioner was shown to be arrested. He further submitted that the petitioner has been in judicial custody from 17.04.2023 and the major part of investigation is also over and hence, he prayed for grant of bail to the petitioner.



4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that the petitioner kidnapped the minor victim girl, aged 17 years and committed penetrative sexual assault on her and that the investigation has been completed and final report has also been filed in Spl.S.C.28 of 2023 on the file of the Mahila Court, Thiruvavarur. He further submitted that the statement of the victim girl has also been recorded under Section 164 Cr.P.C., wherein she has admitted that the relationship between the petitioner was consensual in nature.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR and the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.



WEB COPY

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, Thiruvarur, Thiruvarur District**, 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 learned Sessions Judge, Fast Track Mahila Court, Thiruvarur, Thiruvarur District, on all working days at 10.30 a.m. for a period of two weeks and thereafter, on the dates fixed by the learned Magistrate till committal.

[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



Crl.O.P.No.12408 of 2023

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.

06.06.2023

Lpp

To

1. The Sessions Judge,
Fast Track Mahila Court,
Thiruvavarur, Thiruvavarur District.
2. The Inspector of Police
Valangaiman Police Station,
Thiruvavarur District.
3. The Jailer,
District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



Crl.O.P.No.12408 of 2023

A.D.JAGADISH CHANDIRA,J.,

Lpp

Crl.O.P.No.12408 of 2023

06.06.2023