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Crl.O.P.No.13116 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

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

Crl.O.P.No.13116 of 2023

Sivasankar

... Petitioner

Vs.

The State represented by,
The Sub-Inspector of Police,
Kadampuliyur Police Station
Cuddalore District.

(Crime No.137 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.137 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.D.Padmanabhan

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 02.05.2023, in connection with Crime No.137 of 2023 registered for the offences punishable under Section 366(A) of IPC @ Sections 366, 450, 343 of IPC & Sections 5(l), 5(n) r/w Section 6 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, Athimoolam is that his minor daughter, aged about 14 years was found missing. Based on his complaint, a case in Crime No.137 of 2023 came to be registered for the offences punishable under Section 366(A) of IPC. Later, during the course of investigation, it came to light that the accused had kidnapped the victim girl and had committed penetrative sexual assault on her. Thereby, the case has been altered to the offence under Sections 366, 450, 343 of IPC & Sections 5(l), 5(n) r/w Section 6 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 is an innocent person and he is the close relative of the de-facto complainant. He further submitted that the petitioner had gone for a tour and the victim had also come along with him, without informing her parents, whereas, during such time, the de-facto complainant had given a complaint, as if the victim was missing. He further submitted that the petitioner, on coming to know about the registration of the case, had surrendered before the respondent along with the 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, the victim has not made any allegation as against 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 is in custody from 02.05.2023. Hence, he prayed for grant of bail to the petitioner, stating that he is also ready to abide by any other stringent conditions that may be imposed by this Court.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner, who is the close relative of



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the minor victim girl, had kidnapped the minor victim girl from the legal guardianship of the de-facto complainant and taken her to Rameshwaram. He further submitted that the statement has also been recorded from the minor victim girl under 164 Cr.P.C. However, he opposed for grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) 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, the submissions made by the learned counsel on either side and taking note of the fact that the victim girl has not made any allegations as against the petitioner, as if he had committed penetrative sexual assault and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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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 Special Court for POCSO Cases, Cuddalore**, 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 before the Inspector of Police, C1, Flower Bazaar 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 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



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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.

13.06.2023

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To

1. The Special Court for the POCSO Act Cases,
Cuddalore,
2. The Sub-Inspector of Police,
Kadampuliyur Police Station,
Cuddalore District.
3. The Central Prison,
Cuddalore.
4. The Inspector of Police,
C1, Flower Bazaar Police Station,
Chennai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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