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Crl.O.P.No.21144 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

Crl.O.P.No.21144 of 2024

Harikesavan

...Petitioner/Accused-2

Vs.

The State Rep. By,
The Inspector of Police
AWPS Hosur Police Station,
Krishnagiri District
(Crime No.50 of 2024).

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of B.N.S.S.,
pleaded to enlarge the petitioner on bail in connection with Crime No.50 of
2024 on the file of the respondent police.

For Petitioner : Mr.K.Prabhakaran

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner/A2, who was arrested and remanded to judicial custody on 26.07.2024, for the alleged offences punishable under the Girl Missing Non Act and Sections 87 and 49 of the BNS Act in Crime No.50 of 2024, 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 case in Crime No.50 of 2024 has been registered by the respondent police for "girl missing." During the course of the investigation, it came to light that the petitioner had kidnapped the victim girl with the help of other accused persons and committed the penetrative sexual assault. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner was having a love affair with the daughter of the de-facto complainant/victim minor girl, aged about 17 years. He has not committed any offence as alleged in the FIR. He would



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further submit that the petitioner's name was not found in the FIR. He would further submit that the petitioner was arrested, is in judicial custody for more than 35 days, and is ready to abide by any conditions that may be imposed by this Court. He further submitted that the co-accused was granted bail by this Court vide its order dated 16.08.2024 in Crl.O.P.No.19621 of 2024. Hence, he prayed for bail for the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner had kidnapped the minor victim girl of the de-facto complainant with the help of the other accused persons and committed penetrative sexual assault on her. He would further submit that, as per the investigation, till now, the minor girl has not yet secured and HCP No. 1881 of 2024 is pending before this Court. He would further submit that the investigation was almost completed and the petitioner has no previous case pending against him. However, he vehemently, opposed to grant bail to the petitioner.

5. Heard both sides and perused the materials available on record, including the First Information Report.



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6. Considering the submissions of the learned counsel on either side, considering that the petitioner is not the named accused in the FIR, that the co-accused was released on bail, the fact that no previous cases are pending against the petitioner, taking into consideration the period of incarceration undergone by the petitioner, and also considering all other factors, this Court is inclined to grant bail to the petitioner, subject to 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, each for a like sum to the satisfaction of the learned ***Judicial Magistrate No. II, Hosur***, and on further conditions that:

[a] the petitioner shall report before the respondent police every day at 10.30 a.m. until further orders;

[b] the petitioner shall attend in accordance with the conditions of the bond;

[c] the petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he



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is suspected;

[d] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[e] the petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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]; and

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

05.09.2024

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To

1.The Judicial Magistrate No.II,
Hosur.

2.The Inspector of Police
AWPS Hosur Police Station,
Krishnagiri District

3.The Superintendent,
District Prison, Dharmapuri.

4.The Public Prosecutor,
High Court of Madras.



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P.DHANABAL, J.

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