



Crl.O.P.No.32246 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

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

Crl.O.P.No.32246 of 2024

Kumaresan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Gudiyatham Taluk Police Station,
Vellore District.

(Crime No.493 of 2024).

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, pleased to enlarge the petitioner on bail, in connection with Crime No.493 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.D.Anandan

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

Petition seeking bail in respect of Crime No.493 of 2024 registered for Girl Missing and later, altered into the offences punishable under Sections 137(2), 87 and 64(2)(m) of BNS r/w Sections 5(l), 6 of Protection of Children from Sexual Offences Act, 2012, is on board for consideration.



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2. The incarceration of the petitioner being from 28.09.2024 pleading innocence on the part of the petitioner and false implication in the case, learned counsel for the petitioner seeks indulgence of this Court. He further submits that the petitioner and the victim are known to each other and they were having a love affair, while so, on 26.09.2024, on the compulsion of the victim girl, the petitioner had taken her to relative's house at Andhra Pradesh. He also submits 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 further submits that the investigation in this case has been completed, however, the petitioner is in custody for more than three months. He also submits that the petitioner is ready to abide by any stringent condition that may be imposed by this Court.

3. The case of the prosecution as putforth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of bail, is that the petitioner, aged about 27 years, had kidnapped the minor victim girl, aged about 17 years, to Andhra Pradesh and committed penetrative sexual assault on her. He further submits that initially, based on the complaint given by the de facto complainant, the case was registered for Girl Missing and later, during the course of investigation, the case was altered to one under Sections



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Sections 137(2), 87 and 64(2)(m) of BNS r/w Sections 5(1), 6 of Protection of Children from Sexual Offences Act, 2012. He also submits that the minor victim girl has been secured and the statement under Section 183 of BNSS has also been recorded from her. He further submits that the final report has been filed before the Judicial Magistrate, Gudiyatham and it is yet to be taken on file.

4. Having heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials available on record including the statement recorded under Section 183 of BNSS from the minor victim girl and considering the period of incarceration undergone by the petitioner and that the final report has also been filed, this court is inclined to grant bail to the petitioner with certain conditions and accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties (out of which, one of the sureties should be the blood related surety of the petitioner)**, each for a like sum to the satisfaction of the learned **Special POCSO Court, Vellore**, 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 appear before the learned Judicial Magistrate, Gudiyatham, on all working days at 10.30a.m., until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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 absconds, a fresh FIR can be registered under Section 269 of B.N.S.

07.01.2025

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To

1. The Special POCSO Court, Vellore.
2. The Judicial Magistrate, Gudiyatham.
3. The Inspector of Police,
Gudiyatham Taluk Police Station,
Vellore District.
4. The Superintendent,
Central Prison, Vellore.
5. The Public Prosecutor,
High Court of Madras.

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