

Crl.O.P.No.8368 of 2015**R.SUBBIAH, J.**

Apprehending arrest at the hands of the respondent-police in respect of the alleged commission of offence punishable under Section 12 r/w 11 of Protection of Children from Sexual Offences Act and under Section 3(i)(W)(i) of SC/ST Prevention of Atrocities Amendment Ordinance Act, 2014 and Section 21(2) of the Protection of Children from Sexual Offences Act 2012, in Crime No.4 of 2015 pending on the file of the respondent-Police, the petitioner has approached this Court seeking the relief of anticipatory bail under Section 438 of the Code of Criminal Procedure.

2.The petitioner herein has been arrayed as 2nd accused in this case and he is working as Headmaster in the Government Higher Secondary School, Kolathupalayam. The case of the prosecution is that the 1st accused, who is employed as Drawing Master in the said school, expressed his desire to rape the defacto-complainant's daughter Dhanalakshmi and to take her nude pictures. When the same was informed to the petitioner herein/A2, who is Headmaster of the said School, he did not take any action against the 1st accused. Hence, the complaint was lodged by the defacto-complainant.

3. The learned counsel appearing for the petitioner would submit that the entire allegation in the complaint is only as against the 1st accused, who was working as Drawing Master in the said school, and the 1st accused has already been arrested. So far as the petitioner herein is concerned, he is only the Headmaster of the School and he was not aware of the occurrence and the only allegation in the complaint as against the petitioner herein is that he has not initiated any action against the 1st accused. The learned counsel appearing for the petitioner herein/A2 further submitted that though the case has been registered under Section 12 r/w 11 of Protection of Children from Sexual Offences Act and under Section 3(i)(W)(i) of SC/ST Prevention of Atrocities Amendment Ordinance Act, 2014 and Section 21(2) of the Protection of Children from Sexual Offences Act 2012, so far as the petitioner herein is concerned, there can not be any bar for considering the anticipatory bail since the allegations made in the FIR as against the petitioner herein will not attract the provisions of the SC/ST Prevention of Atrocities Amendment Ordinance Act and Protection of Children from Sexual Offences Act. In this regard, the learned counsel appearing for the petitioner has also relied upon the judgment reported in **(2012) 2 SCC (Cri) 1062 [Vilas Pandurang Pawar Vs. State of Maharashtra]**, wherein it has been held that a duty is cast on the Court to verify the averments in the complaint and to find out whether an offence under the

SC/ST Act has been *prima facie* made out.

4. Heard the learned Government Advocate (Crime Side) also.

5. On perusal of the FIR, I find that though a *prima facie* case has been made out as against the 1st accused under the provisions of SC/ST Prevention of Atrocities Amendment Ordinance Act and Protection of Children from Sexual Offences Act, so far as the petitioner herein/A2 is concerned, the only allegation against him is that he has not initiated any action against the 1st accused, when the occurrence was brought to the knowledge of the petitioner herein by the defacto-complainant. Therefore, I am of the opinion that there cannot be any bar for considering the anticipatory bail in so far as the petitioner herein is concerned. Further, it is the submission of the learned counsel for the petitioner herein that the petitioner was not aware of the incident and only after the arrest of the 1st accused, he came to know about the occurrence.

6. Considering the factual aspects of the case, I am of the opinion that anticipatory bail could be granted to the petitioner herein. Accordingly, the petitioner is directed to be released on bail, in the event of his arrest or on his appearance before the concerned Court, 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, Dharapuram, and on further condition that the petitioner shall report before the respondent police daily at 10.30 a.m. and 5.30 pm, until further orders.

7.The petitioner shall appear before the concerned Court within a period of 15 days from the date of receipt of a copy of this order, failing which, the anticipatory bail granted shall stand automatically cancelled.

21.04.2015

SSV

R.SUBBIAH, J.

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Pre-delivery order

in

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