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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.23434 of 2021

S.Shanmugam

...Petitioner

Versus

The State rep by
The Inspector of Police
All Women Police Station,
Sankari,
Salem District.
(Crime No.16 of 2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of his arrest in Crime No.16 of 2021 pending investigation on the file of the respondent.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 363 and 366 of IPC and Sections 5(j)(ii) and 6 of Protection of Child From Sexual Offences Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.16 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that there was a love affair between the petitioner and the defacto complainant. Further, both of them eloped and the petitioner had sexual intercourse with her, she became pregnant, she gave birth of baby. Based on the complaint was given by the Government Hospital Authority, Erode, a case has been registered.



3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that there was a love affair between the petitioner and the defacto complainant and both of them eloped. Now, the defacto complainant gave birth of baby and the petitioner is ready to take care of the child and wife and also filed an affidavit of undertaking before this Court. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the investigation is almost completed. However, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and also the fact that the investigation is almost completed and the petitioner has also filed an affidavit of undertaking to that effect, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Principal Special Court for Exclusive Trial of /Cases Under POCSO Act, Salem, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) if the petitioner fail to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent police on every Sunday at 10.30., until further orders.

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;



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(f) 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]**; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
09/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SPECIAL COURT
FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARI,
SALEM DISTRICT.

+1 CC to M/S.A.SARAVANAN Advocate on payment of necessary
charges SR.NO.14504

CRL OP.23434/2021

Date :09/12/2021

TA-17/12/2021