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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD) . No.16225 of 2021

Muthusaram

... Petitioner/4th Accused

Vs

State rep.by
The Inspector of Police,
Kadupatty Police Station,
Madurai District.
(Crime No.84 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Poornachandran.S, Advocate.

For Respondent : M/s.R.Meenakshi Sundaram
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

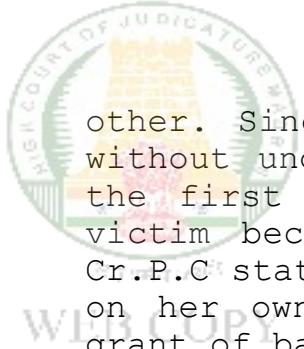
For Anticipatory Bail in Crime No.84 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 5(1), 5(j) (ii) and 6 of the Protection of Children from Sexual Offence Act, 2012 and Section 9 and 10 of the Prohibition of Child Marriage Act, in Crime No.84 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner along with other accused have arranged and performed the marriage between the first accused and the minor victim girl. On the complaint of the Child Welfare committee, the case was registered.

3.The learned counsel appearing for the petitioner would submit that the first accused and the victim girl were in love with each



other. Since, it was not accepted by the victim's family members, without understanding the consequences, the victim had eloped with the first accused and they were living as husband and wife, the victim became pregnant. He would further submit that in the 164 Cr.P.C statement also the victim girl has stated that she had eloped on her own volition with the first accused. Hence, he seeks for grant of bail to the petitioner.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the petitioner herein arranged and performed the marriage for the minor girl with the first accused. He would further submit that the major part of investigation is over and the statement of the victim has been recorded under Section 164 of Cr.P.C.

5.Considering the facts and circumstances of the case, the nature of allegation levelled against this petitioner, this Court is inclined to grant anticipatory bail to the petitioners.

6.Accordingly, this criminal original petition is allowed and 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 learned Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police as and when required.

[c]the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[d]the petitioner shall not abscond 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 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 229-A IPC.

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Sd/-
26/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES
UNDER POSCO ACT,
MADURAI.
2. THE INSPECTOR OF POLICE,
KADUPATTY POLICE STATION,
MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.16225 of 2021
Date :26/10/2021

SP/VR/SAR II/01/11/2021/3P/4C