



Crl.O.P.No.3593 of 2022

R.PONGIAPPAN,J.

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The petitioner, who apprehends arrest for the alleged offences under sections **9, 10 of The Child Marriage Act r/w 5(I) R/w 6 of POCSO ACT** in Crime No.12 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that child marriage was performed to the victim minor girl aged about 14 years with the petitioner. Hence, the complaint was lodged by a Child Help Line Member before the Law Enforcing Agency.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the victim girl's mother gave consent for the victim girl to marry the petitioner, who is the relative of the victim child. In otherwise, he is not having any intention to commit the offence as alleged by the prosecution. Accordingly, he pleads for grant of anticipatory bail to the petitioner.



4.The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that the investigation is pending. However, he admits that in the statement recorded under section 164(5) Cr.P.C statement, the victim girl did not made any allegation against the petitioner.

5. The submissions made by the learned Counsel appearing on either sides are considered. The copy of the FIR and the statement recorded Under Section 164(5) Cr.P.C from the Victim Girl are also placed for perusal.

6. The respondent police registered the case against the petitioner under sections **9, 10 of The Child Marriage Act r/w 5(I) R/w 6 of POCSO ACT**. Now, the averments found in the FIR shows that the mother of the victim child is a cooli, she alone managed her family. Only in the said circumstances, she arranged the marriage of her daughter with this petitioner. In otherwise, whether the petitioner is having any intention to commit the offence as alleged by the prosecution is a matter for trial.



7. Taking into consideration of the facts and circumstances of the case and particularly considering the nature of offence committed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Learned **Mahila Court (FTC) -Namakkal** 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 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) the petitioner and the sureties shall affix his 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;

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



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(c)the petitioner shall report before the respondent police daily at 10.00 a.m. until further orders;

(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 has 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;

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

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