



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4097 of 2022

ARUNKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
W-16, ALL WOMEN POLICE STATION,
PULIANTHOPE,
CHENNAI
CRIME NO.1 OF 2022.

[RESPONDENT]

For Petitioner : M/S.ILAYARAJA KANDASAMY Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

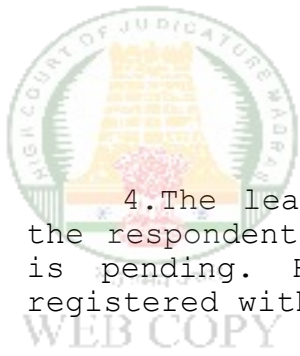
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections 5(j)(II) and 6 of Prohibition of Child from Sexual Offences Act, 2012, in Crime No.1 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioner married the defacto complainant's daughter, who is a minor girl. Hence, the present case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent person and he has been falsely implicated in this case. He would further submit the averments found in the First Information Report would disclose the fact that either the victim child or her father has not lodged any complaint as against the petitioner. Hence, 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 the present case has been registered without getting any consent from the victim child.

5. Submissions made by the learned counsels appearing on either sides are considered.

6. The respondent police registered a case against the petitioner for the offence punishable under Sections 5(j)(II) and 6 of Prohibition of Child from Sexual Offences Act, 2012. The averments found in the First Information Report would disclose the fact that both the petitioner and the victim child got married and thereafter at the time, when the victim child went to the hospital for getting treatment for her pregnancy, the hospital authorities informed to the Welfare Officer and after receipt of the same, the authorities approached the mother of the victim child and the present case has been registered. It shows that either the victim child or her family members are not intended to lodge a complaint as against the petitioner. Further, as of now, both the petitioner and the victim child leads the matrimonial life peacefully.

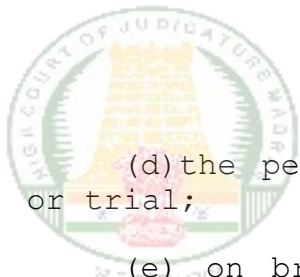
7. In view of the above submissions made by the learned Counsels appearing for either sides and also considering the nature of the offence committed by the petitioner, for completing the investigation, the custodial interrogation may not be necessary in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner.

8. 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 learned Special Judge, POCSO Act, Chennai, 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 report before the respondent police daily at 10.00 a.m., until further orders.

(c) the petitioner shall not tamper with 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]; and;

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

-sd/-
25/02/2022

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 SPECIAL JUDGE,
POCSO ACT, CHENNAI.

2 THE INSPECTOR OF POLICE,
W-16, ALL WOMEN POLICE STATION,
PULIANTHOPE, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.ILAYARAJA KANDASAMY Advocate on payment of necessary charges SR.NO.2979

CRL OP.4097/2022

Date :25/02/2022

JPA 03/03/2022