



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION No.12614 of 2022

KARTHICK @ KARTHI

[PETITIONER / ACCUSED]

Vs

THE STATE

[RESPONDENT]

REP BY THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARI, SALEM DISTRICT
(CRIME NO.7/2022)

For Petitioner : MR.M.GURUPRASAD for M/S. R.JAYAPRAKASH Advocate

For Respondent : MR.V.MEGANATHAN, Govt. Advocate (Crl. Side)

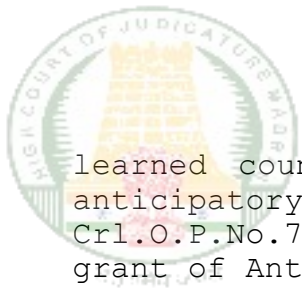
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offence under sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006 in Crime No.7 of 2022, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is alleged to have married a minor girl. Based on the complaint lodged by the District Social Welfare Officer, Salem, the case came to be registered on 20.03.2022.

3. The learned counsel for the petitioner submitted that the petitioner and the victim girl loved each other and since the victim girl said that she was 19 years old, the petitioner married the victim girl. The learned counsel further submitted that both the petitioner family and the victim girl's family are illiterates. The learned counsel further submitted that the complaint is that the marriage had taken place nine months prior before the victim attaining the age of majority. What was the materials verified and whether any medical proof collected is not known. Without verifying these facts, the defacto complainant had lodged the complaint. The



learned counsel further submitted that already this Court granted anticipatory bail to A2 and A3, the parents of the victim girl in Crl.O.P.No.7121 of 2022. Accordingly, the learned counsel prays for grant of Anticipatory Bail to the petitioner.

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4.The learned Government Advocate (Criminal Side) appearing for the respondent submitted that initially, the case was registered by the respondent police for the offence under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006 in Crime No.7 of 2022 and subsequently, the same was altered to under Sections 9, 10, 11 of the Prohibition of Child Marriage Act, 2006 and 5(1), 5(j)(ii) r/w 6 of POCSO Act, 2012 in Crime No.7 of 2022.

5.The learned Government Advocate (Criminal Side) appearing for the respondent further submitted that the petitioner had married the victim girl nine months prior to the victim girl attaining the age of majority. When the victim was four months pregnant, the same came to be known to the subordinate of the District Social Welfare Officer, Salem, and based on the information lodged by the subordinate, the complaint was lodged by the District Social Welfare Officer, Salem and based on the complaint lodged by the District Social Welfare Officer, Salem, the case was registered.

6.Heard the submissions made by the learned Counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the respondent and perused the statement of the victim girl recorded under Section 164 of Cr.P.C.

7.Perusal of the statement of the victim girl recorded under Section 164 of Cr.P.C., reveals that the petitioner and the victim girl loved each other and both the petitioner family and the victim girl's family are illiterates and the victim girl informed the petitioner that she was 19 years old. The petitioner married the victim girl with the consent of all, now they are living happily and the victim girl has given birth to a male child.

8.Considering the submissions made on either side and perusal of materials, it is not in dispute about that the petitioner and the victim girl were in love with each other, the victim girl herself states that she is 19 years old at the time of marriage. Further, the parents of the victim are illiterates and the victim girl does not have any birth certificate, the age of the victim girl recorded by the School Authorities on their own so that she is eligible for admission. The marriage had taken place and the marriage is admitted by both their parents and now they are living happily. This Court feels that more harm would be done to the petitioner and the victim girl as to the baby if the case is pursued further. Hence, in the interest of justice, this Court is inclined to grant anticipatory bail to the petitioner subject to imposing conditions.



9. 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 on which the order copy made ready, before the learned District Munsif-cum-Judicial Magistrate Court at Edappadi, 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, failing which the petition for anticipatory bail shall be dismissed and on further condition that:

(a) 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;

(b) the petitioner shall report before the respondent police as and when required for interrogation.

(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/-

27/05/2022

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
EDAPPADI.



2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT [FOR INFORMATION]

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

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. R.JAYAPRAKASH Advocate on payment of necessary
charges SR.No.8056

CRL OP.12614/2022

Date :27/05/2022

CSK 02/06/2022