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Crl.O.P.No.19162 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 366 of IPC and Section 9 of the Child Marriage Act, 2006, and Section 5(l) r/w 6 of POCSO Act, in Crime No.160 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's daughter aged about 17 ½ years old was having love affair with the petitioner. Thereafter, she eloped with the petitioner and got married and surrendered before the respondent police and given a statement that she was not compelled by the petitioner herein and she went out from home at her own volition and thereafter, given a statement that she was compelled and forced to have physical relationship with the petitioner. Hence, a case has been registered as against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner is ready and willing to register the marriage and produce the same. Hence, he prays for grant of anticipatory bail to the petitioner.



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4. The learned Additional Public Prosecutor would submit that the victim girl's date of birth is 26.10.2004 and she eloped with the petitioner and got married. On complaint, the victim girl was secured and handed over to the Child Protection Home. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. On a perusal of 164 statement recorded from the victim girl revealed that the victim girl aged about 17 ½ years, she was born on 26.10.2004 and she had love affair with the petitioner and eloped thereby, they got married and living together for a period of two months. Thereafter, on the complaint lodged by the parent, she was produced before this Court and now she is in home, since she is not interested to go with her parents. Further, the learned counsel for the petitioner would submit that the petitioner is ready and willing to register their marriage immediately after attainment on her majority.



6. Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. 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 is made ready, before the POCSO Court, 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, failing which, the petition for anticipatory bail shall stand 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



[b] the petitioner shall register his marriage with the minor victim girl, immediately on her attaining majority i.e., on or before 15.11.2022, before the concerned Register Office and shall produce the registration certificate before the respondent Police. Failing which, the anticipatory bail granted to the petitioner shall stand automatically cancelled and the respondent Police shall secure the petitioner and proceed in accordance with law.

[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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

16.08.2022

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