



Crl.O.P.No.20927 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 366(A) IPC @ 363, 366(A), 376 IPC r/w 4(2), 3(a) of POCSO Act in Crime No.89 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner kidnapped the minor victim girl from the lawful guardianship and committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl are known to each other and other than that, there was a friendship. He would further submit that the parents of the victim girl suspected that there was a love affair between the petitioner and the victim girl. The victim girl has quarrelled with the parents and she had gone away from the house. The parents of the victim girl suspecting that the petitioner is responsible for missing of their daughter,



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have given a false complaint. He would further submit that the girl has been secured and the petitioner also understood that the statement has also been recorded from her. In that statement, she has not stated anything as if she has met the petitioner and the petitioner had committed sexual assault on her. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police would submit that the petitioner had kidnapped the victim girl from the lawful guardianship and taken her to Bangalore and other places and committed penetrative sexual assault on her. He would further submit that the victim while giving a statement under Section 161(3) of Cr.P.C., she has stated that the petitioner had physically assaulted her. However, when she was examined by the learned Magistrate under Section 164(5) of Cr.P.C., she has stated that there is no allegation against the petitioner. Hence he vehemently opposed for grant of anticipatory bail to the petitioner.



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5.Heard both the learned counsels and perused the materials available on record including statement under Section 164(5) of Cr.P.C..

6.Taking into consideration the facts and the submissions of the learned counsels and also of the fact that as per the statement under Section 164(5) of Cr.P.C, the petitioner has not made any allegation as against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following 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 made ready, before the learned Special Judge for exclusive trial of cases under POCSO Act, Vellore on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties 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



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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 report before the respondent Police daily at 10.30 a.m for a period of four weeks and thereafter, every Saturday at 10.30 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



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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;

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