



Crl.O.P.No.21607 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehend arrest at the hands of the respondent police for the offences punishable under Section 366-A of IPC @ 366, 450 & 342 of IPC and Sections 3 & 4 of POCSO Act in Crime No.406 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner kidnapped the minor daughter of the *de-facto* complainant and committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are known to each other for long time and that, since it was objected by the parents of the victim, the victim had come to the house of the petitioner and both of them eloped. He would further submit that as per the AADHAR card, the date of birth of the victim girl is 03.11.2003 and she has completed 18 years and 10 months. Whereas for obvious reasons, the respondent police in order to wreak vengeance on the petitioner, has obtained the complaint from the



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de-facto complainant as if her daughter is a minor girl. Based on that complaint, the case has been now been altered to offences under Sections 366, 450 & 342 of IPC and Sections 3 & 4 of POCSO Act. He would further submit that now compromise talks between the families are going on and the petitioner has agreed to marry the victim girl.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner had kidnapped the minor victim girl and had committed penetrative sexual assault. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. The *de-facto* complainant, victim girl and the husband of the *de-facto* complainant are present before this Court. This Court enquired the *de-facto* complainant. She submitted that her daughter was born on 03.11.2003.

6. Taking into consideration the facts and submissions, this Court now finds that the victim girl has completed 18 years of age as she was



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born on 03.11.2003 and the settlement talks are going on between the parties and thereby 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 made ready, before the District Munsif / District Magistrate Court, Kattumannakoil, 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, 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.



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[b] the petitioner shall report before the District Munsif / Judicial Magistrate Court, Kattumannarkoil on every Monday (if Monday is an holiday on the next working day) 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 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.

21.09.2022

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