



Crl.O.P.No.22114 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 376 and 417 of IPC, in Crime No.23 of 2022, seeks anticipatory bail.

2.The case of the prosecution as per the de-facto complainant Fathima Beevi is that she was living with her mother in her paternal uncle's house. The further allegation is that the accused who is the son of her paternal uncle taking advantage of the poverty of the defacto complainant, had subjected her to sexual assault. While so, on 24.05.2021, the mother of the petitioner has passed away and thereafter on the assurance of marrying her, he had sexual intercourse with her and later, he had married another women. When the defacto complainant questioned him, he had stated that he will marry her as 2nd wife, after the marriage of his sister. During which time, the defacto complainant has also got pregnant and on his compulsion, she has also aborted her pregnancy. The further allegation is that even though, the sister of the



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petitioner knew all the above facts, she informed her that not to disclose the same to any one. Thereafter, he did not contact the defacto complainant. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are close relatives and the defacto complainant is none other than the daughter of the petitioner's maternal uncle. He would submit that the petitioner got married to one Kanimozhi on 08.06.2014 and it was an inter-religion marriage and out of their wedlock, they got two children. The defacto complainant is well aware of the marriage of the petitioner and infact she has also attended the marriage of the petitioner. Subsequently, after the death of the mother of the petitioner, the defacto complainant came and stayed in the petitioner's house. She knowing well that the petitioner is a married man had consensual affair with the petitioner. Later the defacto complainant had compelled the petitioner to marry her. In view of that, the petitioner's wife has lodged a complaint before the All Women Police Station Avadi on 04.02.2022 and enquiry was conducted in C.S.R.No.70



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of 2022. While so, the defacto complainant once again threatened the petitioner with her henchmen, when he was in his Kelambakkam house and thereby, the petitioner has also given a complaint before the Kelambakkam Police Station on 09.02.2022, on which, the enquiry was conducted in C.S.R.No.73 of 2022. In both the cases, enquiry is pending. While so, now the defacto complainant has also given a false complaint as if the petitioner on the false promise of marrying her had sexual intercourse with her and later cheated her. He would further submit that the petitioner reiterates that the petitioner and the defacto complainant are close relatives and the defacto complainant is well aware of the marriage of the petitioner and that he also has got two children. It is not a case of rape and based on the complaint, the defacto complainant has attempted to pressurise the petitioner and receives an amount from the petitioner under the threat of arrest. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner and the defacto



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complainant are close relatives and they belongs to Muslim community.

On the false assurance of marrying her, the petitioner had sexual inter course with the defacto complainant and thereafter, he cheated her. He would further submit that the investigation is still pending. Hence, he opposed for grant of anticipatory bail to the petitioner.

5.The learned counsel for the intervenor/defacto complainant would submit that the petitioner had induced the defacto complainant on the false assurance of marrying her and taking advantage of the poverty of the defacto complainant, had sexual intercourse with her and later cheated her. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

6.Heard the learned counsel and perused the entire materials available on record.

7.Taking into consideration the facts of the case and the submissions made by the learned counsel, this Court is inclined to grant



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anticipatory bail to the petitioner with certain conditions.

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 on which the order copy made ready, before the learned Judicial Magistrate, Vanur 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.

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or



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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;

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