



Crl.O.P.No.22345 of 2022

WEB COPY

Crl.O.P.No.22345 of 2022

A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 366 of IPC and Sections 9, 5(l), 5(j)(ii) and 6 of POCSO Act in Crime No.20 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had kidnapped the minor victim girl from the custody of her parents and married her 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 cousins and they were having relationship from a very young age. The parents of the petitioner as well as the victim girl had agreed to conduct a marriage after both of them attaining marriageable age. However, without understanding the consequences and rigors of the POCSO Act, the petitioner and the victim girl had entered into a physical relationship, due to which, the victim girl



Crl.O.P.No.22345 of 2022

WEB COPY

got pregnant. However, since both the parents disowned them, they were living together in a separate house and she was admitted for delivery. On the complaint given by the Doctor to the Child Welfare Committee, the case has been registered. He would further submit that subsequently, the victim suffered a miscarriage and also got aborted and the petitioner understands that the statement has been recorded from the victim girl where she has stated that only on her compulsion, the petitioner had performed the marriage with her in a Temple. Without prejudice, the petitioner is also ready and willing to submit himself for medical examination. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner and the victim girl are cousins and they were having relationship from 10th standard and that the petitioner and the victim girl had physical relationship, due to which, she become pregnant. Later, she also suffered a miscarriage. On the complaint given by the Doctor to the Child Welfare Committee, the case has been registered. He would further



Crl.O.P.No.22345 of 2022

WEB COPY

submit that the investigation is pending and a statement under Section 164 Cr.P.C has been recorded from the victim girl, wherein she has stated that only on her compulsion, the petitioner had married her. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.

6.Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsel for the petitioner that the petitioner is ready and willing to subject himself for medical examination, this Court is inclined to grant 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 learned



Crl.O.P.No.22345 of 2022

WEB.COM

Special Judge for Exclusive Trial of cases under POCSO Act, Salem 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 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] whenever the date is fixed by the respondent Police, the petitioner shall subject himself for medical examination. In the event of the petitioner refusing to subject himself for medical examination, the respondent Police is entitled to file an application for cancellation of bail;

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;



Crl.O.P.No.22345 of 2022

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] 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]**;

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

16.09.2022

vkrr



WEB COPY



Crl.O.P.No.22345 of 2022

A.D.JAGADISH CHANDIRA, J.

vkf

Crl.O.P.No.22345 of 2022

16.09.2022