



CrI.O.P.No.22983 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 Section 363 of IPC, Sections 5(l), 6(1), 16 & 17 of POCSO Act, 2012 and Sections 9 & 11 of Prohibition of Child Marriage Act, 2006 in Crime No.215 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the respondent on information from the Child Welfare Officer had recorded the statement 164 of Cr.P.C of the victim girl and registered this case for the above offences. As per the statement of the victim girl, she was aged about 17 years and she was working in a textile mill for the past two years after completing 10th Standard and the petitioner is her maternal uncle. Further, submission is that she had loved her maternal uncle for the past three years, which is known to her parents. On 25.08.2022, the petitioner had taken her to Bangalore and they stayed there for four days. During which time, they had physical affair with each other. Further, averment is that she had



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come back from Bangalore and the relatives have taken steps to solemnize their marriage. Pursuant to which, they have performed their marriage on 01.09.2022 and the further averment is that the respondent police had taken her to the home on knowing about the marriage.

3. The learned counsel for the petitioner would submit that the petitioner is aged about 20 years and he is none other than the younger brother of the mother of the victim girl and that there was a love affair between the petitioner and the victim girl for a long time and the parents after coming to know about the affair, had arranged the marriage and the marriage was performed on 01.09.2022. However, later the police coming to know that the victim has not attained majority has taken the victim girl and based on her statement, a case has been registered. He would also submit that the parents of the petitioner as well as the victim are uneducated persons and without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act and Prohibition of Child Marriage Act, had performed the marriage. Now, the victim girl is with her mother and the parents of the petitioner have filed



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an affidavit stating that once the victim attains majority, proper marriage would be conducted by them and they would unite them on later point of time. He would further submit that the victim has also agreed to the marriage and now she has completed the age of 17 years. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner and the victim are close relatives and the petitioner is the maternal uncle of the victim girl. He would further submit that they are having a love affair for three years and taken the minor girl to Bangalore, where he had physical affair with the victim girl. Now, the victim has been separated from the petitioner and she is with her parents. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsels and perused the materials available on record including the statement of the victim girl recorded under Section 164 of Cr.P.C. and the affidavit filed by the parents of the



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petitioner. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 Court, Harur**, 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 respondent police everyday at 10.30 a.m., for a period of four weeks and thereafter on 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 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.

11.11.2022

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