



Crl.O.P.No.23916 of 2022

A.D. JAGADISH CHANDIRA, J.,

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The petitioners, who apprehends arrest for the alleged offences under Sections 363, 366 of IPC and 9 and 10 of the Prohibition of Child Marriage Act, 2006 and Section 5(1) r/w.6(1) of POSCO Act 2012 in Crime No.8 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per defacto complainant/mother of the victim is that A1 kidnapped her minor daughter with the aid of A2 and A3/petitioners herein and had performed child marriage with her minor daughter and thereafter, A1 had committed penetrative sexual assault on the victim. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are none other than the mother and aunt of A1. He would submit that there was a love affair between A1 and the victim girl and since it was opposed by the victim's parents. The first petitioner's son eloped from the home and came to the house of the second petitioner. The petitioners had enquired the victim, she had informed that she had attained majority, believing the words, the petitioners performed the marriage between the petitioner's son and victim girl, other than that the petitioners have not committed any offence as alleged. He



would submit that the statement under Section 164 Cr.PC was recorded, wherein the victim had stated that she had informed the petitioners and A1 that she had attained majority. He would further submit that A1 is arrested and enlarged on bail. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The Government Advocate (Crl.side) would submit that the petitioners are the Mother and Aunt of A1. He would submit that A1 kidnapped the minor daughter of the defacto complainant and performed child marriage and thereafter committed penetrative sexual assault. He would submit that the statement under section 164 Cr.PC, wherein she had stated that she had informed the petitioners that she had attained majority. He would further submit that the investigation had been completed and final report has been filed before the Mahila Court, Dharmapuri and the same is yet to be taken up on file.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) and perused the materials available on record and the Statement recorded under Section 164 Cr.PC.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Government Advocate (Crl.side) and



the final report has been filed before the trial Court, this Court is inclined to grant

anticipatory bail to the petitioners subject to the following conditions :

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate, Harur, Dharmapuri District, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners 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 petitioners shall report before the learned Mahila Court, Dharmapuri daily at 10.30am for a period of two weeks and thereafter on all trial dates fixed by the learned trial Judge.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.



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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

26.10.2022

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