



Crl.O.P.No.24241 of 2022

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A.D.JAGADISH CHANDIRA,J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 9, 10 and 11 of Prohibition of Child Marriage Act 2006 and Section 5(1) r/w 6 of POCSO Act, 2012 in Crime No.19 of 2022, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/ District Social Welfare Officer, Salem District is that child marriage was performed between the 1st accused and the victim girl aged about 17 years. Thereafter, the 1st accused had committed sexual assault on the victim girl. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocents. He would further submit that the petitioners and the victim girl's family are close relatives and that since it was their custom to marry the daughter of the maternal aunt, they performed betrothal to the first petitioner and victim girl. Thereafter, based on the wrong information



given that the marriage was performed, a case was registered. He would also submit that a statement of the victim girl under Section 164 of Cr.P.C has also been recorded, wherein she has stated that she has married the 1st petitioner on her own volition and there is no allegation of sexual assault. Hence, the petitioners seek anticipatory bail.

4. The learned Government Advocate (Crl. Side) would submit that a child marriage was performed to the victim girl aged about 17 years with the 1st accused and. Thereafter, the 1st accused had committed sexual assault. Hence, he opposed to grant anticipatory bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) and perused the materials on record including the statement of the victim girl recorded under Section 164 of CRPC.

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



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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 days from the date on which the order copy made ready, before the **learned Judicial Magistrate No.2, Sankari** on condition that the petitioner shall execute separate 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 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 respondent police daily at 10.30 for a period of two (2) weeks and thereafter as and when required.

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



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[d] the petitioners 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

13.10.2022

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