



Crl.O.P.No.24935 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 5(i), 5(j)(ii), r/w Section 6 of POCSO Act, 2012 and Sections 9 and 10 of Prohibition of Child Marriage Act, in Crime No. 219 of 2022, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/minor victim girl is that she had completed XI standard and her parents compelled her to marry A1 and thereafter, forced her to live with A1. Taking the marriage as an advantage, the A1 had committed penetrative sexual assault on her, due to which, she became pregnant. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the first petitioner is the mother of A1 and the second and third petitioners are parents of the minor victim girl. He would submit that the petitioners are poor villagers, who don't have any educational



Crl.O.P.No.24935 of 2022

back ground and that without understanding the consequences and rigours of Prohibition of Child Marriage Act and POCSO Act, they had performed the marriage between the defacto complainant and A1. He would further submit that A1 in this case has been arrested and released on bail and that the statement under Section 164 of Cr.P.C has been recorded from the victim girl and the major part of the investigation has also been over. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that first petitioner is the mother of A1 and second and third petitioners are parents of the defacto complainant. They have performed child marriage between the defacto complainant and A1. Later, A1 had committed penetrative sexual assault on the defacto complainant/minor victim girl, due to which, she became pregnant. He would submit that A1 in this case has been arrested and released on bail. However, he vehemently opposed to grant anticipatory bail to the petitioners.



Crl.O.P.No.24935 of 2022

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5. Heard both the learned counsel and perused the materials including the statement recorded from the victim girl under Section 164 of Cr.P.C.

6. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and also taking note of the fact that the statement recorded from the victim girl under Section 164 of Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioners.

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 **Mahila Court, Erode** on condition that the petitioners shall execute a 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



Crl.O.P.No.24935 of 2022

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 am for a period of two weeks and thereafter every Saturday at 10.30 am until further orders.

[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.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the



CrI.O.P.No.24935 of 2022

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.

22.11.2022

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Crl.O.P.No.24935 of 2022

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Crl.O.P.No.24935 of 2022

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