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CrI.O.P.No.26448 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 Prohibition of Child Marriage Act read with Sections 7 read with 8 of POCSO Act in Crime No.18 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the Rural Welfare Officer is that the accused have performed Child Marriage with the minor victim girl aged about 16 years on 12.09.2022 and thereby committed the offence. Based on the complaint, the case was registered in Crime No.18 of 2022 for the offence under Sections 9 & 10 of Prevention of Child Marriage Act 2006. Later during the course of the investigation, the respondent police found that the victim girl was subjected the sexual assault and thereby the case was altered in to Sections 7 read with 8 of POCSO Act. Hence, the case.



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3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been unnecessarily roped in this case. He would submit that the petitioners are close relatives to the victim girl's family. They were informed that the victim girl was 18 years old and as a proof, they have also produced the Aadhar Card wherein the date of birth of the victim girl is shown as 24.02.2004. The petitioners believing that the victim girl has completed 18 years had agreed for the marriage and the marriage was performed on 12.09.2022. Only after wedding, during the first night, the victim had informed that she has not attained majority and forced into marriage. Thereby the 1st petitioner has not touched the victim girl. He would further submit that the petitioners also understand that a statement has also been recorded from the victim girl under Section 164 of Cr.P.C. wherein she has not stated anything as if the 1st petitioner had committed any sexual assault on the victim girl and he prays to grant anticipatory bail to the petitioners.



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4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioners performed child marriage with the victim girl aged about 17 years and thereafter, the 1st petitioner committed penetrative sexual assault on her. However, he would fairly concede that as per the statement recorded under Section 164 of Cr.P.C. from the victim girl, there is no allegation or averment of sexual assault by the 1st petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Heard the learned counsel. Taking into consideration the facts and submissions and also on perusal of the statement recorded under Section 164 of Cr.P.C. from the victim girl, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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, Thirupur**, on condition that each of the



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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 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 1st petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter on every Saturday at 10.30 a.m., until further orders. The 2nd petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

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