



Crl.O.P.No.27110 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 offence punishable under Section 366 of the Indian Penal Code, 1860 and Sections 5(l), 5(n), 5(j)(ii), 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006, in Crime.No.32 of 2022, seeks anticipatory bail.

2. The case was registered against the petitioner on the complaint given by the Child Line Team Member, Child Line Office, Erode. As per the complaint, on 18.10.2022, an information was given by the Primary Health Centre, Thindal, Erode to the Child Line Office that one Kavitha/victim girl aged about 17 years was admitted to the Primary Health Centre, Thindal, Erode for treatment and it was found that the victim girl was pregnant about 45 days and based on the statement, a complaint has been registered by the respondent for the offences under Section 366 of the Indian Penal Code, 1860 and Sections



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5(l), 5(n), 5(j)(ii), 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006. Later it was found that the family members have performed child marriage to the victim girl with A1 after that A1 has committed penetrative sexual assault, due to which, the victim girl has become pregnant. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is none other than the maternal uncle of the victim girl. The petitioner and the victim girl hail from a poor strata of the society and they have grown up together and there was a love affair between them. The family members presumed that the victim girl has attained majority and they had performed marriage, subsequent to which, they were living together as a husband and wife. He would further submit that the petitioner is an innocent person and without understanding the consequences and rigors of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Prohibition of Child Marriage Act, 2006, had fell in love with the victim minor girl and also the marriage was



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performed by the elders without the knowledge of rigors of law. He would also submit that the victim girl has given statement under Section 164 of Cr.P.C, wherein she has stated that there was a love affair between her and the petitioner and the marriage was performed only with her consent. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner is A1 in this case. He would further submit that the petitioner/A1 is the maternal uncle of the victim girl and the family members have performed child marriage, pursuant to which, the petitioner had committed penetrative sexual assault, due to which, the victim girl has become pregnant. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record including the 164 Statement recorded from the victim girl.



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6. Taking into consideration the facts and circumstances of the case, the submissions of both sides and also taking note of the 164 statement recorded from the victim girl wherein, she had stated that there was a love affair between them, this Court is inclined to grant bail to the petitioner with certain conditions.

7. 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 Mahila Court (Fast Track Court), Erode District** 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 :



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[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;

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of four weeks and thereafter 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]***; and;

[f] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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