



Crl.OP.No.27925 of 2022

Crl.O.P.No.27925 of 2022

WEB COPY

A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest for the alleged offence under Sections 366, 506(i) IPC and Section 5(1), 5(j)(2) POCSO Act in Crime No.18 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Saraswathi is that her minor daughter one xxxx, aged 17 years had informed her that she was having stomach pain and dizziness. Therefore, the defacto complainant had taken her daughter to the hospital and it was found that her daughter was pregnant. When the defacto complainant enquired her daughter, she had informed that her neighbour one Vinothkumar was responsible for the pregnancy and that he had committed repetitive penetrative sexual assault on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely roped in in



Crl.OP.No.27925 of 2022

WEB COPY

this case. He would submit that the defacto complainant had suspected the petitioner that he is responsible for daughter's pregnancy and she has given a complaint against the petitioner. He would submit that a statement has also been recorded from the victim girl, wherein she has stated that the petitioner is not responsible for the pregnancy and that there is only friendship between them. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner had committed repetitive penetrative sexual assault on the victim girl. Due to which, she became pregnant and the pregnancy has been aborted and the samples have been sent for DNA test. He would further submit that a statement under Section 164 Cr.P.C., has also been recorded from the victim girl. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that the petitioner is ready and willing to furnish his blood samples and other samples for taking DNA test, whenever called upon.



CrI.OP.No.27925 of 2022

WEB COPY

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record, including the statement under Section 164 Cr.P.C.

7. Taking into consideration the facts and the submissions and the statement recorded from the victim girl under Section 164 Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:-

8. 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 Mahila Court (Fast Track), Namakkal 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



Crl.OP.No.27925 of 2022

petition for anticipatory bail shall stand dismissed and on further condition that:

[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 daily at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

[c] the petitioner when called upon by the respondent for giving samples for DNA test, shall give his samples as per his undertaking.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.



Crl.OP.No.27925 of 2022

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

In the event of the respondent police requiring samples shall issue notice to the petitioner, who shall in turn furnish samples for taking DNA test.

29.11.2022

Anu



WEB COPY



Crl.OP.No.27925 of 2022

A.D.JAGADISH CHANDIRA, J.

Anu

Crl.O.P.No.27925 of 2022

29.11.2022