



Crl.O.P.No.28186 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 offences punishable under Section 366 (A) of IPC @ Section 366 (A) of IPC read with Section 5(l), 5(j)(ii), 6 and 7 of POCSO Act read with Sections 9 & 10 of Child Marriage Act in Crime No.61 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant is that the A1/petitioner herein had kidnapped his minor daughter aged about 17 years. Based on the complaint, a case has been registered for the offences under Section 366 (A) of IPC. During the course of the investigation it was found that the accused had kidnapped the minor daughter of the *de-facto* complainant and performed child marriage with her and had committed repetitive penetrative sexual assault on her. Due to which, the case was altered in to Sections 366 (A) of IPC read with Section 5(l), 5(j)(ii), 6 and 7 of POCSO Act read with Sections 9 & 10 of Child Marriage Act. Hence, the case.



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3. The learned counsel for the petitioner would submit that the petitioner and the *de-facto* complainant's daughter are known to each other for a long time and there was love affair between them. The parents of the minor victim girl, on coming to know about the love affair had reprimanded the petitioner and had taken steps to give her in marriage to some one else against her choice. The petitioner is running a coconut shop and the minor victim girl came his shop and had compelled the petitioner for having a physical affair and thereafter she came along with the petitioner and without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act, the marriage was performed between the petitioner and the minor victim girl. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the *de-facto* complainant and performed child marriage with her and had committed repetitive penetrative sexual assault on her.



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Hence, he opposed to grant anticipatory bail to the petitioner.

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5. Heard the learned counsel. Perused the material available on record including the 164 statement of the victim girl. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 Additional Sessions Judge for POCSO Cases at Villupuram**, 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 stay at Madurai and report before the Inspector of Police, Tallakulam Police Station everyday at 10.30 a.m., for a period of one month and thereafter report before the respondent police everyday 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be



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registered under Section 229A IPC.
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