



Crl.OP.No.28389 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest for the alleged offence under Sections 5(I), 5(n), 5(j)(ii) & 6 of Protection of Child from Sexual Offences Act, 2012 in Crime No.25 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on the complaint given by the Child Welfare Officer that a minor girl was admitted in the hospital for delivery, a case came to be registered by the respondent police and during the course of investigation, it was found that the petitioner had committed repeated penetrative sexual assault on the victim, whereby, she had become pregnant. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and both have grown up together and that the family members of the victim girl are taking steps for marriage of the victim with the petitioner, after the



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victim attains marriageable age. The petitioner, without knowing the consequences for the offence under Section 21(1) of POCSO Act, had love affair with the minor victim girl. He would submit that a statement has also been recorded from the victim girl under Section 164 Cr.P.C., wherein she has admitted that there was a love affair and the physical affair was consensual in nature. 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, who is aged 21 years and being a close relative of the victim girl had committed repeated penetrative sexual assault on her. Due to which, she had become pregnant and the offence came to light, when the girl was admitted in the hospital for delivery. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on



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record, including the statement under Section 164 Cr.P.C.

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6. 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:-

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 Fast Track Mahila Court, Erode 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:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may



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

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