



CrI.O.P.No.28776 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 6 of POCSO Act, 2012 in Crime No.8 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant Vani is that, on 06.11.2022, the respondent received an intimation from the Kasturba Gandhi Hospital for Women and Children, Chennai, stating that a minor girl had delivered a child. Based on that, the respondent had got to the hospital and obtained statement from the victim girl, wherein she has stated that she is 18 years old and that on 01.01.2022, when she was a minor, the petitioner, who is her cousin had committed sexual intercourse with her, due to which, she became pregnant. Thereafter, they had sexual intercourse several times and on coming to know about the pregnancy, the parents had performed the marriage between them on 23.05.2022. Later, the victim girl had delivered a child. Hence, the case.



CrI.O.P.No.28776 of 2022

WEB COPY

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a case has been wrongly registered against him. He would also submit that the petitioner and the *de-facto* complainant are close relatives and they have grown up together. He would further submit that the date of birth of the *de-facto* complainant as per the Aadhar Card is 23.04.2003 and she has attained majority on 23.04.2021. However, even as per the statement recorded from the victim girl, the alleged date of sexual intercourse is stated to be on 01.01.2022, on which date, the victim girl had attained majority and the victim girl had delivered a child on 04.11.2022. Further, he would submit that, since the victim girl has become pregnant before marriage, in order to protect the honour of the girl, the relatives had performed their marriage on 23.05.2022. He would also submit that the petitioner has done the act without understanding the consequences and rigours of the Prevention of Child from Sexual Offences Act. He would further submit that the major part of the investigation has been completed and a statement under Section 164 of Cr.P.C. has also been recorded from the victim girl, from which, the petitioner understands that the sexual intercourse between the



Crl.O.P.No.28776 of 2022

petitioner and the victim girl was consensual in nature. However, he would also submit that the petitioner does not deny the paternity of the child and he would submit that the child is born to him only. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the date of birth of the victim girl as per Birth Certificate is 23.04.2004, however, as per the Aadhar Card, the date of birth is 23.04.2003. He would also submit that the investigation is going on and a statement under Section 164 of Cr.P.C. has also been recorded from the victim girl. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsels and perused the materials available on record including the statement of the victim girl recorded under Section 164 of Cr.P.C. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



Crl.O.P.No.28776 of 2022

WEB COPY

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 VIII Metropolitan Magistrate, George Town, Chennai**, 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 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 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.



Crl.O.P.No.28776 of 2022

WEB COPY

[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 registered under Section 229A IPC.

30.11.2022

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