



Crl.O.P.No.29121 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b) & 323 of IPC read with Sections 8 & 12 of POCSO Act 2012 in Crime No.08 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the *de-facto* complainant/minor victim girl is that on 26.10.2022, when she had gone to buy tea from the nearby tea shop, the accused had abused her and attempted to catch hold of her and she had escaped from them and informed it to her aunt Asha Mary who had called the *de-facto* complainant's mother Stella Mary and all of them had gone to the accused and questioned them why they had behaved with their daughter like that in an indecent manner. The accused had assaulted and behaved indecently with the *de-facto* complainant's mother and also assaulted the *de-facto* complainant's aunt on her breast with a plastic stand. Hence, the case.



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3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false complaint has been given by the *de-facto* complainant on the instigation of her relatives. He would submit that the petitioners and the *de-facto* complainant's were having previous enmity. There was a wordy quarrel on 26.10.2022, where in the mother of the 1st and 2nd petitioners one Kalaiselvi was brutally assaulted by the family member of the *de-facto* complainant and she was admitted at Kilpauk Government Medical College hospital and after taking treatment, she was referred to one Yashodha hospital and she was admitted as in-patient. He would submit that the reason for enmity between the petitioners and the *de-facto* complainant is that the sister of 3rd petitioner was married to one Stephen/*de-facto* complainant's mother's brother and there are matrimonial issues pending between them. On account of previous enmity, on the instigation of the family members they have purposely given a complaint through a minor victim girl to bring the case under the provisions of POCSO Act. He would further submit that the entire case is a fabricated one and the petitioners who are college going



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students have been unnecessarily roped in this case. He would submit that the petitioners had also produced the photographs taken from the CCTV footage to show that no such incident had happened and it is the *de-facto* complainant's family members, who are the aggressors and only to escape from the complaint given by the petitioners, belatedly a complaint has been given on 07.11.2022 in respect of the incident which is alleged to have happened on 26.10.2022. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners and the *de-facto* complainant are known to each other. The petitioners have abused and harassed the *de-facto* complainant and when it was questioned by the *de-facto* complainant's mother and her aunty, the petitioners have assaulted them. Hence, he opposed to grant anticipatory bail to the petitioners.

5. Heard the learned counsel. Perused the materials available on record including the statement recorded from the victim girl under



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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 petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Special Court for Exclusive of trial cases under POCSO Act, Chennai**, on condition that each of the petitioners shall execute a separate 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 petitioners 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 petitioners shall report before the Inspector of Police, All



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Women Police Station, Anna Nagar, everyday at 10.30 a.m., until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

28.11.2022

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