



Crl.O.P.No.30857 of 2022

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T.V.THAMILSELVI,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 5(j)(ii) r/w 6, 16 and 17 of POCSO Act, 2012 and Section 9 and 10 of Prohibition of Child Marriage Act, 2006 in Crime No.23 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that petitioner/A1 had committed penetrative sexual assault on the victim girl, thereby she became pregnant. Thereafter, the other accused, who are the parents of the petitioner and the parents of the victim girl performed the child marriage between them. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl's are close relatives and the petitioner and the victim girl have grown up together. However, without understanding the rigorous and consequences of POCSO Act, they have entered into



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consensual affair, due to which, the victim has become pregnant and she also delivered a child. He would also submit that the case has been registered based on the complaint given by the Social Welfare Officer. The family members of the petitioner and victim in order to save the honour of the family and protect the future of the victim have performed the marriage between the petitioner and victim. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner is aged about 19 years and committed penetrative sexual assault on the victim, who is only 13 years and she became pregnant and delivered a child. The parents of the petitioner and the victim have performed the child marriage. He would also submit that the anticipatory bail petition filed by the petitioner has been dismissed by this Court on 01.11.2022 in Crl.O.P.No.22570 of 2022. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.



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5. Heard the learned counsel and perused the materials available on record. 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 Special Court Exclusive Under Trial of POCSO Act cases, Coimbatore**, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten 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;



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[b] the petitioner shall report before the respondent Police as and when required for interrogation;

[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 registered under Section 229A IPC.

16.12.2022

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