



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 26.04.2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD) . No.4128 of 2022

James @ Antony James

... Petitioner/ Sole Accused

Vs

The Inspector of Police,
Authoor Police Station,
Authoor,
Thoothukudi District.
(Crime No.53 of 2021)

... Respondent/Complainant

For Petitioner : Mr.N.Pragalathan,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl. Side).

PETITION FOR ANTICIPATORY BAIL Under Section 438 of Cr.P.C.

PRAYER :-

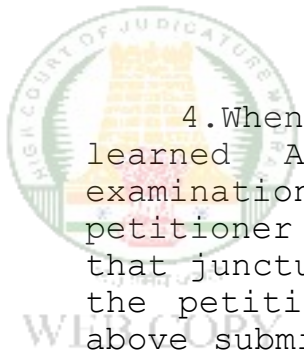
For Anticipatory Bail in Crime No.53 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 'Girl Missing' altered into Section 363 IPC, Section 9 of Prohibition of Child Marriage Act and Section 5(1) r/w 6 of POCSO Act, in Crime No.53 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the victim girl were in love and on 28.02.2021, the petitioner had eloped with the victim girl, that they got married on 01.03.2021 and thereafter the petitioner had committed penetrative sexual assault on the victim girl.

3.The learned counsel for the petitioner would submit that the petitioner and the victim girl were in love, that the victim girl, in her statement recorded under Section 164 Cr.P.C., has stated that she had alone eloped with the petitioner and that they were married in a Murugan Temple at Nagercoil.



4. When the matter was taken up for hearing on 17.03.2022, the learned Additional Public Prosecutor submitted that medical examination of the victim girl was over and that since the petitioner is absconding, the medical test is yet to be taken and at that juncture, the learned counsel for the petitioner submitted that the petitioner is ready to undergo medical test. Considering the above submissions, this Court has directed the respondent police to submit a requisition to the concerned Court and directed the petitioner to appear before the concerned Court and on filing of such requisition, the concerned Court was directed to take necessary steps to send the petitioner for medical examination.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that in pursuance of the same, the petitioner has appeared and the medical tests were already taken.

6. When the matter is taken up for hearing today, the learned counsel for the petitioner has filed an affidavit sworn by the petitioner, wherein, he has stated that the victim girl is now completed 18 years and that he is ready and willing to marry the victim girl on her consent.

7. Considering the above facts and circumstances and also the facts that medical examinations were already over, that investigation is almost completed except receiving the medical test report and that the petitioner is not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. 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 of receipt of a copy of this order, before the learned Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, 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 learned Sessions Judge concerned and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Sessions Judge may obtain a copy of their Aadhaar 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 one month and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with the 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 Sessions Judge/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 Sessions Judge/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 229-A IPC.

sd/-

26/04/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDGE,
SPECIAL COURT FOR THE EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
AUTHOOR POLICE STATION, AUTHOOR,
THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.PRAGALATHAN N Advocate SR.No.3920

ORDER

IN

CRL OP(MD) No.4128 of 2022

Date :26/04/2022

PKP/SVR/SAR:I/28.04.2022 : 3P/5C