



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Reserved on : 20/04/2022
Delivered on : 26/04/2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.6632 of 2022

Arockia Arul Thomas ... Petitioner/Sole Accused

Vs

The State Rep. By,
The Inspector of Police,
Paramakudi All Women Police Station,
Paramakudi,
Ramanathapuram District.
Cr.No. 8 of 2022.

... Respondent/Complainant

For Petitioner : Mr.Hentry Thiphange, Advocate
for Mr.Karunanidhi R,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

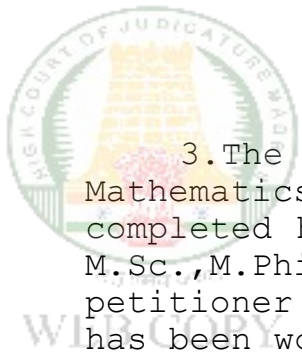
PRAYER :-

For Anticipatory Bail in Crime No.8 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 7 and 8 r/w 9(f) and 10 of Protection of Children from Sexual Offences Act, 2012 in Crime No.8 of 2022, seeks anticipatory bail.

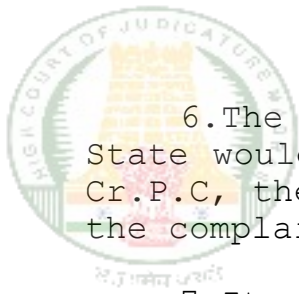
2.The case of the prosecution is that the defacto complainant is studying in tenth Standard, that the petitioner was sent as a Supervisor for revision examination on 31.03.2022 to the class room, in which the defacto complainant was taking examination, that when the exam was about to start, the petitioner touched her hand and pulled her hand in the exam hall in front of all students



3.The petitioner's case is that the petitioner is working as a Mathematics Teacher in the said school, that the petitioner has completed his B.Sc graduation and B.Ed and thereafter, he completed M.Sc.,M.Phil (Mathematics) and M.Sc (Psychology), that the petitioner is working in the said School from the year 2010, that he has been working for the past 12 years without any remarks, that the petitioner never involved any issues with the Parents, Students, Teachers and Correspondents in the School, that he has helped lot of students to give up their bad habits and transform them to be good students, that he has been working as a member of Nallor Vattam- an organization that helps students come up with their creativity and that the petitioner has received 'Best Teacher Award' in the year December 2021 and he was selected only by the students themselves.

4.The petitioner's further case is that he was sent to tenth standard class room to supervise the revision examination, that he reached the class room at about 09.20 am, that he had seen a girl/defacto complainant herein had her own passport size photo and scribed badly, that when the same was enquired, she informed that she does not like herself, that the petitioner advised her not to have inferiority complex and generally touched her wrist without any intention, that she shared this incident with her class teacher Sr.Amutha, who in turn gave this incident as complaint to the Head Master, that the said Teacher Amutha and the Correspondent Singarayar are having enmity with the petitioner, that because of the pressure of the Correspondent and the said Teacher Amutha, the defacto complainant filed a complaint to the Child Welfare Committee and based on that, the Committee members came to the School and called the petitioner and asked about the alleged incident, that again on 01.04.2022, the petitioner went to Child Welfare Committee, after enquiry, had confirmed that there was no mistake on the part of the petitioner and they informed that they would give a final report and that in the meanwhile, the respondent Police has hurriedly registered the present case.

5.The learned counsel for the petitioner would submit that the Correspondent of the School is having enmity over the petitioner since he questioned about the excess fee collected from the students, that he also requested the Management to provide drinking water to all the students, but the same was not provided, that the Correspondent orally scolded the the petitioner few days ago under the misconception that the petitioner has given false information about the School to others and the petitioner alone had instigated other persons to apply TRI for collecting information, that the petitioner is innocent, that he has not committed any offence as alleged by the prosecution and that at the instance of the Correspondent and said Teacher, he was falsely implicated in the above case.



6.The learned Additional Public Prosecutor appearing for the State would submit that in the Statement recorded under Section 164 Cr.P.C, the victim girl has narrated the version as stated by her in the complaint, but with some developments.

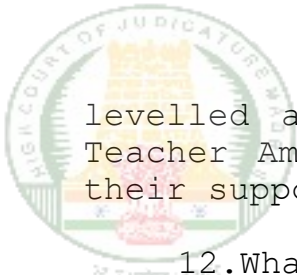
7.It is the case of the prosecution that when the petitioner was supervising the examination, he found that the defacto complainant had scribed badly on her own passport size photo, that when the petitioner enquired about the same, the victim girl informed that she does not like herself, that the petitioner had informed her that he likes her and touched her wrist, but in the 164 Statement, according to the prosecution, the victim girl has stated that the petitioner had repeatedly asked as to why she had scribed on her photo, that when the victim girl had asked him to permit her to write the examination, he had touched her hands and informed that he liked her, that when she had removed her hands, the petitioner hit on her head, that when the same was questioned, he replied that since she had committed a mistake, he had hit her and that after completion of the examination, she had informed about the said incident to her class teacher Amutha, who in turn had taken her to the Head Master.

8.The learned counsel for the petitioner would submit that when Child Welfare Committee/the competent Authority was enquiring the complaint, there is no explanation as to why the respondent had hurriedly registered the FIR and that only at the instigation of the Correspondent and the said Teacher Amutha, the complaint was lodged, falsely implicated him. He has also produced the copies of the documents in an attempt to show that there existed previous motive for the Correspondent to lodge the complaint against the petitioner.

9.The learned counsel for the petitioner has also relied on the decision of this Court in **N.Chandramohan Vs. State of another**, reported in **2019 SCC Online Madras 3666**, wherein, after considering the serious allegations levelled by the wife of the accused that her husband had committed sexual assault against their own daughter. The learned Judge has summoned the victim girl and enquired about the incident and after enquiry, found that the defacto complainant lodged a false complaint with ulterior motive and thereby misused the provisions of POCSO Act and also directed the Police to proceed against the defacto complainant's wife under Section 22 of the POCSO Act.

10.But in the present case, considering the materials now available, it is premature to comment on the allegations and to decide about the genuineness of the same.

11.No doubt, the learned counsel for the petitioner has also filed an affidavit given by the mother of the class mate of the victim girl, wherein, she has stated that all the allegations



levelled against the petitioner are all false and that the said Teacher Amutha, who is related to her, had also attempted to get their support for the false complaint lodged at their instance.

12.Whatever it is, in the case on hand, as already pointed out, the incident was allegedly occurred in the class room, where 20 other girl students were also present along with the victim girl. Moreover, admittedly, the petitioner is not their class teacher nor he had taken classes to her.

13.As rightly pointed out by the learned counsel for the petitioner, it is not the case of the defacto complainant that the petitioner had behaved in such a manner, prior to the alleged occurrence.

14.The learned Additional Public Prosecutor would fairly submit that there was no such complaint as against the present petitioner.

15.Considering the facts and circumstances of the case and also taking note of the alleged enmity between the petitioner and the School Management and that the petitioner is not having any bad antecedents as stated by the learned Additional Public Prosecutor, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

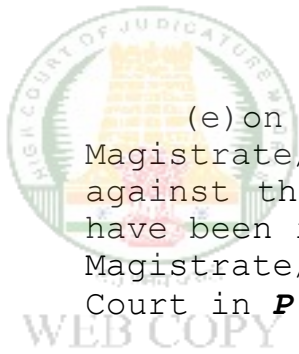
16.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Sessions Judge, Special Court for POCSO Act Cases, Ramanathapuram, on condition that the petitioner 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 to the Police Officer, who intends to arrest or 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 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 daily at 10.30 am for a period of one month and thereafter, 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]***; and;

(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.

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 SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
RAMANATHAPURAM.
2. THE INSPECTOR OF POLICE,
PARAMAKUDI ALL WOMEN POLICE STATION,
PARAMAKUDI,
RAMANATHAPURAM DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-3846[I] dated 26/04/2022)

ORDER

IN

CRL OP(MD) No.6632 of 2022

Date : 26/04/2022

DAS

USK/VR/SAR-II/27.04.2022/5P/5C