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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.20378 of 2022

Deva Gilbert,

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Uthamaplayam,
Theni District.
Cr.No.31/2022.

... Respondent/Complainant

For Petitioner : M/s.Karthik A, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.31/2022 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 Sections 366 IPC, 9 of Prohibition of Child Marriage Act, 2006, and Section 5 (j)(ii) r/w 6 of POCSO Act, 2012, in Cr.No.31 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the victim girl is aged about 17 years. The petitioner married the victim girl on 24.02.2022 with well knowledge that she is a minor. Now, the victim girl has given a birth of male baby on 10.11.2022. The staffs of the hospital found that she was minor at the time of marriage and informed the same to the respondent police. Based on that, present complaint came to be registered.



3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl loved each other. On knowing the same, the parents of the victim girl arranged marriage for her with another person. Hence, she eloped from her house and insisted the petitioner to marry her. In such circumstances, he married the victim girl. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.Side) would submit that the 164 statement of the victim girl was recorded and 3 witnesses have been examined in this case. The investigation is still pending and considering the age of the victim girl, he strongly opposed to grant anticipatory bail to the petitioner.

5.Considering the facts and circumstances of the case and also considering the facts that 164 statement of the victim girl was recorded and 3 witnesses have been examined in this 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 his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Fast Track, Mahila Court, Theni, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate 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 until further orders.

(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 229-A IPC.

sd/-
24/11/2022

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

DSS

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 FAST TRACK
MAHILA COURT, THENI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, UTHAMAPLAYAM,
THENI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.KARTHIK, Advocate (SR-13640[I] dated 24/11/2022)

ORDER
IN
CRL OP(MD) No.20378 of 2022
Date :24/11/2022

PKP/VR/SAR-4/07.12.2022/3P/5C