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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2022

PRESENT

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

CRL OP(MD). No.20687 of 2022

Mahesh

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
Crime No.30/2022.

... Respondent/Complainant

For Petitioner : M/s.Jeganathan C,
Advocate.

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

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

PRAYER :-

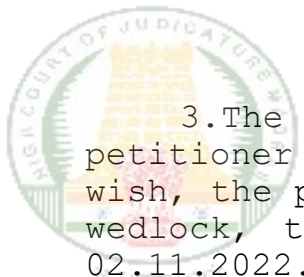
For Anticipatory Bail in Crime No.30/2022 on the file of the respondent police.

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 Section 366 IPC and Section 9 of Prohibition of Child Marriage Act, 2006 r/w Sections 5(j)(ii) and 6 of the Protection of Children from Sexual Offence Act, 2012 in Cr.No.30 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the de-facto complainant loved each other and when it came to the knowledge of the de-facto complainant's parents, they arranged marriage with another person against her wish. Therefore, the de-facto complainant eloped with the petitioner and got married and out of the wedlock, a male child was also born on 02.11.2022 at the Government Hospital, Cumbum. Based on the information given by the hospital authorities, the respondent police registered the present case against the petitioner.

<https://www.mhc.tn.gov.in/judis>



3.The learned counsel for the petitioner would submit that the petitioner and the de-facto complainant were in love and on her own wish, the petitioner married the de-facto complainant and out of the wedlock, the de-facto complainant gave birth to a male child on 02.11.2022. He would further submit that the petitioner is innocent and he has been falsely implicated in this case. Hence, he prays for anticipatory bail.

4.The learned Additional Public Prosecutor would submit that there existed love affairs between the petitioner and the de-facto complainant, who is aged about 17 years and got married and out of the wedlock, the de-facto complainant gave birth to a male child on 02.11.2022. He would further submit that the statement of the de-facto complainant was recorded under Section 164 of Cr.P.C. and seven witnesses have been examined and the investigation is still pending. Hence, he strongly opposed to grant anticipatory bail.

5.Considering the facts and circumstances of the case and also considering the statement of the victim girl recorded under Section 164 of Cr.P.C and also the fact that seven witnesses have been examined so far, 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 Mahila Court (FTC) Theni, Theni District, 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 Court 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 Mahila Judge/concerned Court 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 Mahila Judge/concerned 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 Mahila Judge/concerned 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/-
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

sj i

TO

1. THE JUDGE, MAHILA COURT (FTC) THENI, THENI DISTRICT.

2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UTHAMAPALAYAM,
THENI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. JEGANATHAN C Advocate SR.No.56892(f)

ORDER
IN
CRL OP(MD) No.20687 of 2022
Date : 23/11/2022

RK/BUC/SAR-3 (25/11/2022) 3P/5C