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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/11/2022

PRESENT

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

CRL OP(MD). No.20872 of 2022

Balakrishnan

... Petitioner/Accused No.2

Vs

The State rep.by,
The Inspector of Police,
Sanarpatti Police Station,
Dindigul District.
Cr.No.247/2022.

... Respondent/Complainant

For Petitioner : M/s.Jothivel N,
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.247/2022 on the file of the Respondent police.

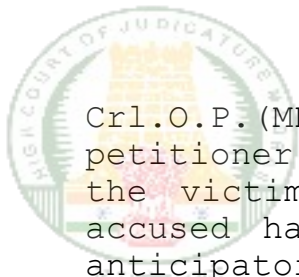
ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 9 and 11 of Prohibition of Child marriage Act, 2006 and Sections 5(l), 5(n), 5(j)(ii) and 6 of POCSO Act, 2012 in Crime No.247 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the first accused married the victim, who was aged about 17 years and the marriage was performed by the other accused persons. The first accused had sexual relationship with the victim, in which, she got pregnant and delivered a male child. Hence, the complaint.

3.The learned counsel for the petitioner would submit that this is the petitioner's second anticipatory bail application and the earlier application was dismissed by this Court, dated 20.10.2022 in

<https://www.mh1.in.gov.in/judis>



Crl.O.P.(MD)No.18845 of 2022. He would further submit the petitioner is the father of the victim and he only taking care of the victim and her child. He would further submit that the co-accused have already been released on bail. Hence, he prays for anticipatory bail.

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4.The learned Government Advocate(Crl.Side) would submit that there are three accused involved in this case and the petitioner is arrayed as A2. The victim was aged about 17 years at the time of occurrence and the petitioner along with A3 performed child marriage to the victim. Nine witnesses have been examined and the statement under Section 164 of Cr.P.C. of the victim girl was recorded. He would further submit that this is the petitioner's second anticipatory bail application and the earlier application was dismissed by this Court, dated 20.10.2022 in Crl.O.P.(MD)No.18845 of 2022. Hence, he strongly opposed to grant anticipatory bail.

5.Considering the facts and circumstances of the case and also considering the fact that the co-accused have already been released on bail and also the facts that nine witnesses have been examined and 164 statement of the victim girl was recorded, 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 District and Sessions Court (Mahila Fast Track Court), Dindigul, 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 Sessions Judge concerned and on further conditions that:

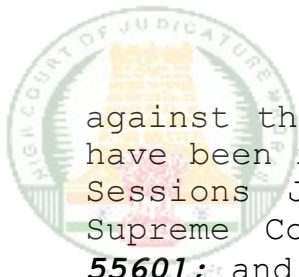
(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Sessions Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(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 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]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

25/11/2022

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/12/2022

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

SJI

TO

1. THE DISTRICT AND SESSIONS JUDGE
(MAHILA FAST TRACK COURT), DINDIGUL.

2. THE INSPECTOR OF POLICE,
SANARPATTI POLICE STATION,
DINDIGUL DISTRICT.

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

+1 CC to M/s.M.JOTHIVEL, Advocate (SR-13892[I] dated 29/11/2022)

ORDER

IN

CRL OP(MD) No.20872 of 2022

Date : 25/11/2022

RK/BUC/SAR-4 (07/12/2022) 3P/5C