



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2022

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THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.21484 of 2022

S.Vignesh

...Petitioner/Sole Accused

-vs-

State rep.by
The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
(in Crime No.35 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the Petitioner on bail in the event of his arrest by the respondent Police in Crime No.35 of 2022 on the file of the Inspector of Police, All Women Police Station, Uthamapalayam, Theni District.

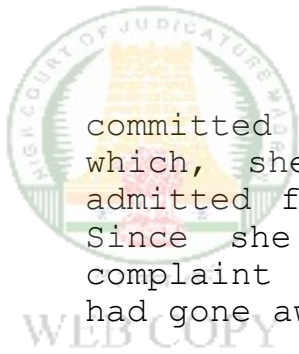
For Petitioner : Mr.P.Gunasekaran, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 366 IPC, Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5 (j)(ii) r/w Section 6 of POCSO Act, in Crime No.35 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the de-facto complainant is that the de-facto complaint was born on 09.10.2005 and that her father passed away before two years. She comes from a poor background. During 2020, she was studying 10 standard in Cumbum Government School and that during Corona, she and the accused, who belong to the same community, became friends and that they fell in love. While so, on 20.08.2021, when nobody was in her house, the accused had come to her house and taken her to Cumbum Balavinayagar Temple where, they got married. Later, they left to Kerala and they were living in Kerala and during that time, the accused had



committed sexual intercourse with her on several occasions, due to which, she became pregnant. Thereafter, on 08.11.2022, she was admitted for delivery and delivered a female child on 12.11.2022. Since she was a minor, the hospital authorities had given a complaint and thereafter, the accused and the de-facto complainant had gone away. Hence, the case.

3.The learned Counsel for the Petitioner would submit that the petitioner and the de-facto complainant belong to the same community and knowing each other for a long time and without understanding rigorous and consequence of the Prohibition of Child Marriage Act and POCSO Act, he performed marriage with the Petitioner. Hence, he seeks anticipatory bail.

4.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statements of the victim girl, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

5.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 on which the order copy made ready, before the **learned Mahila Court, Judicial Magistrate level, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday 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 229A IPC.

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Sd/-
05/12/2022

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

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TO

1. THE JUDGE, MAHILA COURT,
JUDICIAL MAGISTRATE LEVEL,
THENI, THENI DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UTHAMAPALAYAM,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.21484 of 2022
Date :05/12/2022

SP/BUC/SAR III/09/12/2022/3P/5C