



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2022

CORAM

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

CRL.O.P (MD) No.21488 of 2022

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Pethandi

... Petitioner/Accused-2

-vs-

State Rep. by
The Inspector of Police,
All Women Police Station,
Thirumangalam, Madurai District.
(Crime No.29 of 2022)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to enlarge the Petitioner on bail in the event of her arrest by the respondent Police with respect to Cr.No.29 of 2022.

For Petitioner	: Mr.S.Muthukumar, 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 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(I), 5(j)(ii) r/w Sections 6, 16 and 17 of POCSO Act, and under Section 376(3) IPC in Crime No.29 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant/informant, the Counselling Personal Officer at Child Welfare Unit, Madurai, is that on 23.09.2022, he was deputed to enquire a minor victim girl, who was admitted in Government Rajaji Hospital for delivery and on enquiry, the victim had informed that she is 16 years old and that her mother's cousin brother used to come to her house often and that during such time, on 03.10.2021, when nobody was there, they had consensual affair, due to which, she had become pregnant and without informing their family, they had gone to Thirupur, where, they have married and living as husband and wife at Thriuppur. Thereafter, they had come back during the month of February'2022 to Sivagangai and living as husband and wife. Thereafter, she delivered a child on 06.09.2022. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is the mother of the victim girl. The victim girl had fell in love with her cousin brother and that without her knowledge, they have left to Thiruppur and living as husband and wife. The



petitioner without understanding the rigorous and consequences of the POCSO Act and Child marriage Act, did not inform the absconding of her daughter and the first accused to the Police. While so, the victim had come back from Thiruppur to the first accused house, where, they were living as husband and wife. Later, the victim had delivered a child on 08.09.2022. He would further submit that the petitioner is hailing from a lower strata of the society and that she seeks anticipatory bail.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the mother of the victim girl and she encouraged her daughter to get married to A1 and A1 had committed repeated penetrated sexual assault on the victim, due to which, the victim had delivered a child on 08.09.2022 and he opposes to grant anticipatory bail.

5.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.

6.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 Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai**, 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 FII registered under Section 229A IPC.

sd/-
05/12/2022

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

To

- 1 THE PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, MADURAI.
- 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, THIRUMANGALAM, MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.21488 of 2022
Date :05/12/2022

cmr
RS/VR/SAR.1 (20.12.2022) 3P-4C