



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2022

PRESENT

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

CRL.O.P (MD) No.21742 of 2022

WEB COPY

Ayankumar

... Petitioner/Accused No.1

-Vs-

State through represented by
The Sub Inspector of Police,
Puliangudi Police Station,
Tenkasi District.
(in Cr.No.352 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 his arrest by the respondent Police with respect to Cr.No.352 of 2022.

For Petitioner : Mr.M.Jothi Basu, Advocate

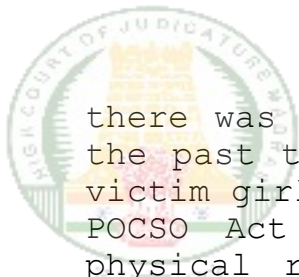
For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 9, 10 and 11 of Prohibition of Marriage Act, 2006 and Section 6 r/w 5(i), 5(n) and 5(j)(ii) of POCSO Act in Crime No.352 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that on the information given by one Muthathal, Rural Welfare Officer, Vasudevanallur, the case in Cr.No.352 of 2022 came to be registered for the offences punishable under Sections Sections 9, 10 and 11 of Prohibition of Marriage Act, 2006 and Section 6 r/w 5(i), 5(n) and 5(j)(ii) of POCSO. As per her complaint, she came to know that on 06.04.2022, the accused had performed child marriage with a minor girl, who was born on 05.10.2004, due to which, she became five months pregnant. Hence, the complaint.

3.The learned Counsel for the petitioner would submit this is the third application and would further submit that victim has now attained the age of majority. He would also submit that the petitioner was arrayed as A1 in this case. He would submit that



there was a love affair between the petitioner and victim for the past three years. He would submit that the petitioner and the victim girl, without understanding the consequence and rigors of the POCSO Act and Prohibition of Child Marriage Act, have been in physical relationship, due to which, the victim became pregnant. The family members, in order to save the honour of the family, without understanding the provisions of law, have performed child marriage and the victim became pregnant. He would submit that as of now, the victim has attained the age of majority and the family members are also taking steps to get them married. The victim is also in the advance stage of pregnancy and taken care by both the family members. He would further submit that a statement has also been recorded from the victim girl under Section 164 Cr.P.C., wherein, she has stated that her relationship with the petitioner was consensual in nature.

4.The learned Government Advocate (Crl.side) would submit that the victim was born on 05.10.2004 and she is now 18 years old. When the victim was a minor, the accused have performed child marriage between the petitioner and the victim, due to which, she became pregnant and on the complaint given by the Rural Welfare Officer, a case has been registered. He opposes to grant anticipatory bail to the petitioner.

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.

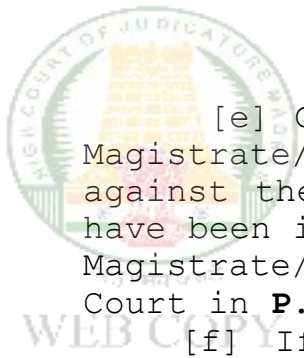
6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate Special Court for POCSO Act Cases, Tirunelveli, on condition that the petitioner 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 three 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 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.

sd/-

09/12/2022

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/12/2022

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

TO

- 1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE,
PULIANGUDI POLICE STATION,
TENKASI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.G.M.LAW OFFICE, SR.No.14605

ORDER

IN

CRL OP(MD) No.21742 of 2022
Date :09/12/2022

cmr

SA/VR/SAR.1/21.12.2022/3P/6C