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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21885 of 2022

Ramana Raja

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Nainar Kovil Police Station,
Ramanathapuram District.
(Crime No.161/2022).

... Respondent/Complainant

For Petitioner : M/s.Jeyakarthik M S,

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

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

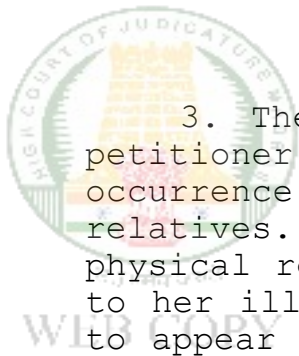
PRAYER :-

For Anticipatory Bail in Crime No.161/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 5(1), 5(j)(ii), 6 of POCSO Act, 2012 and Section 376 of I.P.C, in Crime No.161 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant/minor victim xxx is that she is aged about 17 years and she got acquainted with the accused, while she was going to School. On 11.08.2022, at about 07.00 p.m., the accused had called her to a dark place, wherein, he had sexual intercourse with her, due to which, she became pregnant and due to her ill health, the pregnancy was aborted. As per the intimation given from the hospital, the case has been registered.



3. The learned counsel for the petitioner submitted the petitioner is innocent and his age was 18 years at the time of occurrence. Both the victim and the petitioner are distant relatives. Without knowing the consequences of POCSO Act, they had physical relationship, in which, the victim became pregnant and due to her ill health, pregnancy was aborted. The petitioner is ready to appear before the respondent Police to give his DNA sample. In this case, major part of the investigation has been completed and 164 Cr.P.C., statement of the victim also recorded, wherein, there is no allegation against the petitioner. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner had penetrative sexual assault with the victim, who was aged about 17 years and she became pregnant. Due to her ill-health miscarriage was happened. In this case, after completing the investigation, charge sheet has been filed before the concerned Court, which is yet to be taken on file. He would further submit that DNA sample of the petitioner is to be taken. Considering the gravity of offence, prays to dismiss the petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the statement of the victim, recorded under Section 164 of Cr.P.C

6. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Paramkudi**, on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each (one surety shall be either father or mother of the petitioner) 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., until further orders and he shall furnish his samples for conducting DNA Test, as and when required by the respondent Police;



[c] the petitioner shall not tamper with the 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]**; and;

[f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/12/2022

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/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

TO

- 1 THE JUDICIAL MAGISTRATE,
PARAMAKUDI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
RAMANTHAPURAM DISTRICT.
- 3 THE INSPECTOR OF POLICE
NAINAR KOVIL POLICE STATION,
RAMANATHAPURAM DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.JEYAKARTHIK M S Advocate (SR-14933[I] dated 15/12/2022

ORDER
IN
CRL OP(MD) No.21885 of 2022
Date :15/12/2022