



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

PRESENT

WEB COPY

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

CRL.O.P (MD)No.21991 of 2022

Manojkumar

...Petitioner/Sole Accused

-vs-

State rep.by
The Inspector of Police,
All Women Police Station,
Aundipatti.
Theni District.
(in Crime No.24 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 with respect to Cr.No.24 of 2022.

For Petitioner : Mr.C.Susi Kumar, 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(1), 5(j)(ii) r/w 6(1) of POCSO Act in Crime No.24 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Vimala, is that the accused is related to her and he had developed love affair with her minor daughter, who aged about 16 years and that on 08.12.2021, she had reprimanded her daughter. While so, on 09.12.2022, the accused had kidnapped her minor daughter and married her at Sivan Kovil in Mayiladumparai and that on the complaint given by her to the Child Welfare Committee, the minor girl was secured and brought back and handed over to her on 14.02.2022. However, within one week after handing over of the daughter, the accused had



once again kidnapped her daughter and ran away. Later, she was informed that her daughter was admitted in a Government hospital, where, she had delivered a child. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner and the de-facto complainant are close relative and that the victim is his cousin and there was a love affair between them and since it was objected to by the family members, the petitioner, without understanding the consequences and rigors of POCSO Act and Prohibition of Child Marriage Act, had eloped with the victim girl and that they were living as husband and wife and that the victim is also now delivered a child. He would also submit that the petitioner does not deny the paternity of the child and that now, the family members are taking steps for arranging the marriage. He would further submit that the major part of the investigation is also over and the petitioner understands that the respondent has recorded a statement from the victim girl under Section 164 Cr.P.C., wherein, she had stated that she had voluntarily eloped with the petitioner and she has consented for the marriage.

4. The learned Government Advocate (Crl.side) would submit that the petitioner, who is the close relative of the de-facto complainant, had kidnapped her daughter and performed child marriage and committed penetrative sexual assault on her, due to which, the victim minor girl became pregnant and now the victim girl delivered a male child. He would also submit that the investigation is pending and he would object for granting 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 Judicial Magistrate, Aundipatti, 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 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.

Sd/-

13/12/2022

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/12/2022

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

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TO

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

ORDER

IN

CRL OP(MD) No.21991 of 2022

Date :13/12/2022