



Crl.O.P.No.4682 of 2023

Crl.O.P.No.4682 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 366 of IPC and Sections 6 r/w. 5(I) of the POCSO Act, in Crime No.10 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant Jayalakshmi is that her minor daughter XXXX was having a relationship with one Prasanth/the petitioner herein, for the past four years and on coming to know about the same, they have reprimanded her daughter. While so, on 25.12.2022, when the defacto complainant along with her husband had gone to work, the petitioner went to their house and on the promise of marrying the victim girl, had committed penetrative sexual assault on her, due to which, the victim became pregnant. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given. He



WEB COPY

would submitted that admittedly there was a love affair between the petitioner and the victim girl for the past four years and that without understanding the consequences, they both had consensual relationship due to which, the victim became pregnant. Later, on coming to know of the pregnancy of the victim, the parents of the victim against the wishes the victim and the petitioner, aborted the foetus. He would submit that the petitioner and his parents are ready and willing to perform marriage between the petitioner and the victim girl, after the victim girl attains majority and that the petitioner as well as, the father of the petitioner have filed affidavits of undertaking before this Court agreeing to conduct the marriage between the petitioner and the victim girl once the victim girl attains majority. Hence, he would seek for grant of anticipatory bail.

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner had induced the minor victim girl and on the promise of marrying her, had sexual intercourse with her, due to which, she became pregnant. Later, the petitioner refused to marry the victim girl and thereby, the case has been registered. Hence, he



CrI.O.P.No.4682 of 2023

vehemently opposed to grant anticipatory bail to the petitioner.

WEB COPY

5. In reply, the learned counsel for the petitioner would submit that the petitioner does not deny the responsibility and he admits that he is responsible for the pregnancy of the victim girl. He would submit that the affidavit of undertaking filed by the petitioner as well as his father, may be taken into consideration and the petitioner may be granted bail.

6. Heard both sides and perused the materials available on record including the Statement recorded under section 164 Cr.P.C from the victim girl.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Counsel and also the affidavit of under taking filed by the petitioner as well as, his father undertaking to perform the marriage between the petitioner and the victim as and when, the victim attains majority, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



Crl.O.P.No.4682 of 2023

WEB COPY

8. 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, Namakkal**, 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 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 conditions 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] In the event of the respondent police seeking for medical examination of the petitioner, the petitioner shall co-operate for the same.

[c] the petitioner shall report before the respondent police every Saturday and Sunday at 5.30 p.m., until further orders.



CrI.O.P.No.4682 of 2023

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

9. The affidavit of undertaking filed by the petitioner as well as his father shall form part of Court records.

10.04.2023

mpa



WEB COPY



CrI.O.P.No.4682 of 2023

A.D.JAGADISH CHANDIRA, J.

mpa

CrI.O.P.No.4682 of 2023

10.04.2023