



Crl.O.P.No.4948 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 376 of IPC and Section 5(M), r/w 6 of POCSO Act 2012 in Crime No.1 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that as per de-facto complainant Durga has got married one Kamal, son of the petitioner on 23.11.2012. Out of wedlock she got two children, one is aged about 10 years and another is 5 years. Her mother-in-law passed away 15 years back and while she was living with her husband at Sevoor, her father-in-law misbehaved with her daughter by touching her private parts and she had complained about this to her husband. Whereas, her husband had not believed it. Later due to certain misunderstanding, the defacto complainant had gone to her parents house. While so, on 22.01.2023, her husband had taken her two children to see his father and on the same day at 5.00 p.m. brought back the child and left the child at her house. Her son, aged about 10 years, informed that her father-in-law had misbehaved



with her daughter, aged 5 years, by touching her private parts inappropriately and thereafter, she has taken her daughter to the Doctor, Government Hospital, Polur. It was informed that her daughter had injuries in the private parts and hence she has given a complaint on 13.02.2023.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given by the defacto complainant to settle certain personal scores in the family. He would submit that the defacto complainant is the daughter-in-law of the petitioner and there was a matrimonial dispute pending between his son and the defacto complainant and the defacto complainant had left the matrimonial home along with her children. She had insisted for certain properties to be settled in her name and settlement talks are going on. Whereas, in order to put pressure on the petitioner's family, she has given a false complaint as if the petitioner had misbehaved with her daughter. He further submitted that even as per the defacto complainant the alleged occurrence is said to have taken place on 22.01.2023, whereas, there are ample evidence to show that the child had attended school on the next



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day i.e., on 23.01.2023 and thereafter, she also attended the Republic Day function on 26.01.2023 and only due to misunderstanding in the family and in order to put pressure on the petitioner a false complaint has been given. He would further submit that the son of the petitioner has also filed an affidavit before this Court stating that the petitioner/his father has not behaved like that and due to matrimonial dispute, the complaint has been given. He would also submit that the petitioner has totally eight grand children and the “Kathani function” of the daughter of the petitioner was conducted on 27.01.2023 and even at that time, the defacto complainant did not make any complaint about the petitioner and thus, it shows that it is a false complaint.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner is the grandfather of the victim child and he has misbehaved with the victim child by inappropriately touching her private parts. By quoting about the private Doctor's statement that there was redness on the private part of the child and he would object for grant of anticipatory bail.



WEB COURT

5. M/s.M.Rebecca, learned counsel appearing for the intervenor/defacto complainant would vehemently oppose by stating that the petitioner is the own grandfather of the victim child and he had misbehaved with the victim girl and therefore, would object to grant anticipatory bail to the petitioner.

6. Heard the learned counsel on either sides and perused the entire materials available on record including the affidavit filed by Kamal, the son of the petitioner, who is also the father of the victim girl.

7. Taking into consideration the facts and circumstances of the case and also the affidavit of undertaking filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

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 **Mahila Court, Thiruvannamalai**, on condition that the petitioner shall execute a separate 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



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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 every day at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 a.m., 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]**.



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

24.03.2023

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