



Crl.O.P.No.5191 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections Girl Missing altered to Sections 363, 376(2)(n) of IPC and Sections 5(1) and 6 of POCSO Act r/w 9 of Child Marriage Act, in Crime No.38 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 20.02.2023, the minor daughter of the defacto complainant aged 17 ½ years was found missing and hence, initially a case was registered by the respondent police “for girl missing”. Subsequently, during the course of investigation, it came to light that the petitioner had kidnapped the victim girl and performed child marriage with her and thereafter, taken her to Bangalore and committed sexual assault on her. Hence, the offences were altered as stated above.



Crl.O.P.No.5191 of 2023

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given against him. He would further submit that the petitioner and the victim girl are known to each other and they were in love with each other. When the parents of the victim came to know about their love affair, they arranged marriage for the victim against her wish and thereby, the victim and the petitioner gone to Kalahasthri and later gone to Bangalore. Thereafter, when they came to know about the registration of the case, the petitioner was taking steps to handover the victim. By that time, the respondent police secured the victim. The petitioner further understands that the statement of the victim has been recorded under Section 164 of Cr.P.C., wherein, she has not made any allegations as against the petitioner. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner kidnapped the daughter of the defacto complainant aged 17 ½ years and committed sexual assault on her



Crl.O.P.No.5191 of 2023

and now the victim girl has been secured. However, in the statement recorded under Section 164 of Cr.P.C., the victim girl has not made any allegations of sexual assault by the petitioner.

5. Heard both sides and perused the materials available on record including the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

7. 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 Principal Special Court for Exclusive Trial of cases under POCSO Act, Vellore**, on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees twenty five thousand only) with two sureties** for a like sum to the



Crl.O.P.No.5191 of 2023

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 two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders. In the event of the respondent police require sample from the petitioner for DNA test, the petitioner shall provide the same and co-operate for the medical examination.

[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]***; and;



Crl.O.P.No.5191 of 2023

[f] if the accused thereafter absconds, a fresh FIR can be registered

under Section 229-A IPC.

14.03.2023

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Crl.O.P.No.5191 of 2023

A.D.JAGADISH CHANDIRA. J.

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Crl.O.P.No.5191 of 2023

14.03.2023

Page 6 of 6