



CrI.O.P.No.5694 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 Girl Missing @ Section 366(A) of IPC and under Sections 5(i), 6, 17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 in Crime No.316 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant K.Vijayakumar is that his minor daughter aged about 16 years was found missing from 13.05.2022. Based on the complaint, a case was registered by the respondent Police in Crime No.209 of 2022 as "girl missing". Later, during the course of investigation, it came to light that one Premkumar/A1 had kidnapped the minor victim girl, married her and committed penetrative sexual assault on her. Hence the case.



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3. The learned Counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case since he happens to be the relative of Premkumar/A1. He would further submit that the main accused/A1 and the co-accused/A2 in this case had been arrested and later enlarged on bail by the Fast Track Mahila Court, Erode in Crl.M.P.No.10 of 2023 on 05.01.2023 and Crl.M.P.No.950 of 2022 on 07.09.2022. He would further submit that 164(5) Statement has been recorded from the victim girl, wherein, she has not made any allegations against the petitioner. He would further submit that the major part of investigation is over. He would also submit that the petitioner is ready and willing to furnish solvent sureties and to abide by any stringent condition that may be imposed on him. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent would submit that the petitioner has been arrayed as a third



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accused in this case. He would further submit that the petitioner is a relative of the first accused/Premkumar. The first accused/Premkumar had kidnapped the minor victim girl, married her and committed penetrative sexual assault on her and the petitioner/A3, being the relative of the first accused/Premkumar, had given asylum to the victim girl. He would further submit that 164(5) statement has also been recorded from the victim girl. Therefore, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the entire materials available on record including the 164(5) Statement recorded from the victim girl.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Counsel on either side and also taking note of the 164(5) Statement recorded from the victim girl, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



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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 Judicial Magistrate, Sathyamangalam**, 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] **the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.**



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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