



Crl.O.P.No.5848 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 Section 9 of Child Marriage Act r/w 5(L) and 6 of POCSO Act, 2012, in Crime No.21 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Anjammal is that the accused had induced her minor daughter and married her and also committed repetitive penetrative sexual assault due to which, she has become pregnant. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl are known to each other and there was a close relationship between them and subsequently, without understanding the consequences and rigours of the POCSO Act, the petitioner and the victim girl got married without the



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knowledge of their parents and they also entered into physical relationship due to which, the victim girl became pregnant. Later, when the victim girl's mother came to know that her daughter/the victim girl was pregnant, she lodged a complaint against the petitioner. He would further submit that the petitioner understands that the statement of the victim girl has been recorded under Section 164 of Cr.P.C. and without prejudice, the petitioner is also ready and willing to subject himself for medical examination and co-operate for the investigation. 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 married the minor victim girl and committed sexual assault on her repeatedly due to which, the victim girl has become pregnant. As per the statement of the victim girl recorded under Section 164 Cr.P.C., the petitioner has also threatened the victim girl. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.



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

6. Taking into consideration the facts and circumstances of the case and also the submissions of either side, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

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 Special Judge for POCSO Act, Cuddalore**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties (**out of which, one surety should be either the father or mother of the petitioner**) 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



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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] whenever the date is fixed by the respondent Police, the petitioner shall subject himself for medical examination. In the event of the petitioner refusing to subject himself for medical examination, the respondent Police is entitled to file an application for cancellation of bail;

[c] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

[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.



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[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.

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