



Crl.O.P.No.5942 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 alleged offences punishable under Sections 450, 506(i) of IPC and Section 3(a), 4(1) of POCSO Act in Crime No.122 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that, as per the defacto complainant Tamanah, she is a single mother and her minor daughter is studying 12th standard in a school. Most of the days her daughter was found very tired and depressed. When she enquired her daughter, she informed that the accused got introduced through Instagram during May, 2022 and that during June, 2022 when she was not at home, he had come to the house and compelled had sexual intercourse with her daughter and later he had also stolen an amount of Rs.2,23,000/- from her house and when the daughter had refused to speak to him, he had threatened her that he would do away the defacto complainant and her daughter. Hence, the case.



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3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a case of love affair has been exaggerated and a false complaint has been given as if the petitioner had committed sexual assault as well as committed theft of cash from the house of the defacto complainant. He would submit that the petitioner is aged about 20 years and he is studying in a reputed college in the city and got introduced with the victim through social media. The petitioner was not aware of the age of the victim and on the invitation of the victim, the petitioner has gone to the house of the defacto complainant. During such time when the defacto complainant was not at her home, they had consensual sexual affair. He would submit that belatedly the defacto complainant came to know about the affair between the petitioner and the victim girl and only in order to sever their relationship, a false allegation of theft of Rs.2,23,000/- is also given in the complaint. He would submit that the petitioner now understands the consequences of the affair and relationship and he has also filed an affidavit of undertaking before this Court stating that he will not interfere with the life of the victim girl. He



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would further submit that the affair between the petitioner and the victim is only consensual in nature.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner had befriended the victim in the social media and when the defacto complainant/mother of the victim was not there, the petitioner had gone to the house of the victim girl and committed penetrative sexual assault and during such time, the petitioner has also taken away a sum of Rs.2,23,000/- from the house of the defacto complainant. However, he submitted that the statement has been recorded from the victim girl under Section 164 of Cr.P.C.

5. The learned counsel for the petitioner would submit that the petitioner's father is a retired Sub-Inspector of Police and both the petitioner as well as the father of the petitioner have filed affidavits of undertaking before this Court stating that they will not interfere with the life of the defacto complainant.



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6. Heard the learned counsel on either sides and perused the entire materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C.

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 **Special Court for the exclusive trial of POCSO Act Cases, Chennai**, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned



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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, as and when required for interrogation.

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

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