



Crl.O.P.No.6013 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 294(b), 384, 376 and 506(ii) of IPC r/w 66E, 67 of I.T.Act in Crime No.4 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant / Kanaga is that due to misunderstanding with her husband, she is living alone and she was doing mason work. While so, Ganesan and Murugan, under whom, the de-facto complainant was working, taking advantage of the same, have repeatedly committed penetrative sexual assault on her and the said Murugan had taken the obscene photos and videos of the victim, without her knowledge and he, by threatening her that he will upload her photos in social media, has satisfied his lust and also received an amount to the tune of Rs.3 lakhs. Later all the accused joined together and have committed gang rape on her. Hence the case.



Crl.O.P.No.6013 of 2023

WEB COPY

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and due to the existing financial dispute between the petitioner and the defacto complainant, a false complaint has been given against him. He further submitted that the defacto complainant had borrowed a money for her daughter's marriage and when the petitioner asked to return the same, she has given a false and exaggerated complaint. He further submitted that even as per the complaint, the de-facto complainant has stated that she has been sexually assaulted for two years, whereas, the complaint has been given after two years, therefore, the delay in lodging a complaint would absolutely show that it is a false case. He further submitted that the defacto complainant had been subjected to the medical examination, the petitioner understands that the doctor has stated that there is no external injuries and there is also no evidence of struggle marks. He further submitted that the similarly placed co-accused have approached by this Court in Crl.O.P.No.4264 of 2022 and this Court had taking into consideration the facts and submissions, had granted anticipatory bail to the co-accused and thereby, he seeks for anticipatory bail to the petitioner.



Crl.O.P.No.6013 of 2023

WEB COPY

4. Per contra, the learned Government Advocate (crl.side) appearing for the respondent police submitted that the petitioner is arrayed as A1 and the defacto complainant was working under the petitioner as a mason, taking advantage of the same, the petitioner had sexually abused her for the past 2 ½ years and the statement under Section 164 Cr.P.C has also been recorded from the defacto complainant. However, he opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the entire materials available on record including C.D files, medical report and also the statement under Section 164 Cr.P.C recorded from the victim.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the either side and also considering that the co-accused in this case has already been granted anticipatory bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



CrI.O.P.No.6013 of 2023

WEB COPY

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 No.I, Pennagaram, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 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, daily 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;



Crl.O.P.No.6013 of 2023

[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;

17.03.2023

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CrI.O.P.No.6013 of 2023

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CrI.O.P.No.6013 of 2023

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