



Crl.O.P.No.6053 of 2023

Crl.O.P.No.6053 of 2023

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 of IPC and Sections 7, 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, in Crime No.16 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant is that his niece aged about 17 years, studying B.Sc. Nursing in Government Medical College, Kilpauk, Chennai, was found missing from 22.01.2022 and on the complaint given by him, a case in Crime No.16 of 2023 was registered by the respondent police as 'girl missing'. Later, during the course of investigation, it came to light that the petitioner/accused had kidnapped the minor victim girl and committed penetrative sexual assault on her in train. Hence the case.



CrI.O.P.No.6053 of 2023

WEB COPY

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 roped into this case. He would further submit that the petitioner is a resident of Erode and befriended the victim girl through Social Media and thereby, their friendship had developed into love and the victim girl, who is residing in Chennai, had come to Erode to meet the petitioner. Meanwhile, the de facto complainant has given a complaint as if his niece was found missing. He would further submit that without understanding the consequences and rigors of the POCSO Act, the petitioner and the victim girl had entered into a physical relationship and now, a false allegation has been made, as if the petitioner is holding some messages and photographs in the mobile phone. He would submit that the petitioner is ready to cooperate with the respondent police for the purpose of investigation and further submit that the petitioner is also ready to file an Affidavit of Undertaking before the Jurisdictional Magistrate that he will not upload/share any messages or photographs of himself along with the victim girl in future and he will also not interfere with the life of the



Crl.O.P.No.6053 of 2023

WEB COPY

victim girl. 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 had kidnapped the minor victim girl and had committed penetrative sexual assault on her in train. He would further submit that 164 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 materials available on record including the 164 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 Statement recorded from the victim girl, this Court



CrI.O.P.No.6053 of 2023

WEB COPY

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 Special Court for Exclusive Trial of POCSO Act, Chennai**, 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 file an Affidavit of Undertaking that he will not upload/share any messages or



WEB COPY



Crl.O.P.No.6053 of 2023

photographs of himself along with the victim girl in future and also that he will not interfere with the life of the victim girl hereinafter.

[c] 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.

[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.

[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.

17.03.2023

arb



WEB COPY



Crl.O.P.No.6053 of 2023

A.D.JAGADISH CHANDIRA, J.

arb

Crl.O.P.No.6053 of 2023

17.03.2023