



Crl.O.P.No.6234 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 11(4) read with Section 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, in Crime No.258 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant xxx, minor girl aged about 15 years is that while she, along with her friend, had gone to attend nature's call in a Toilet in Government Higher Secondary School, the petitioner/accused had taken video of them. Hence the complaint.

3. The learned counsel for the petitioner submitted 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. He further submitted that, earlier the de-facto complainant has named the petitioner in the FIR. Later, the respondent Police, finding that the



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petitioner has not involved in the offence, let him out. A reading of the FIR shows that even as per the FIR, the petitioner was caught hold by the villagers and subsequently, the petitioner understands that the statement has also been recorded from the de-facto complainant/victim girl under Section 164 of Cr.P.C, wherein, she has not named anyone and she has stated that she does not know the person, who has taken the video. He also submitted that the petitioner is ready and willing to furnish solvent sureties and 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) appearing for the respondent submitted that, initially the de-facto complainant/victim girl had named the petitioner, however, the statement recorded from the de-facto complainant/victim girl under Section 164 of Cr.P.C., shows that she does not know the person who has taken the video. Even in the FIR, the de-facto complainant/victim girl has stated that the villagers have caught hold of the petitioner/accused, however, the fact remains that the petitioner/accused was caught hold only on



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suspicion. Later, they have found out that there is no involvement of the petitioner in the offence and hence, the present petition has been filed seeking anticipatory bail apprehending the arrest. Hence, 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 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 Sessions Judge, Mahila Court, Perambalur**, on condition that the



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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., 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.

[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



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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.

20.03.2023

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