



Crl.O.P.No.6642 of 2023

A.D. JAGADISH CHANDIRA, J.,

The petitioner, who apprehends arrest for the alleged offences under Sections 366(A) of IPC r/w. Section 6 of Protection of Children from Sexual Offences Act in Crime No.964 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. The learned counsel for the petitioner would submit that case of the prosecution is that the petitioner is the sole accused in Spl.SC.No.94 of 2023 on the file of the Sessions Judge, Magalir Nethimandram, POCSO Act cases, Chennai for the offences under Section 366(A) of IPC r/w. Section 6 of Protection of Children from Sexual Offences Act. The petitioner was arrested on 22.07.2018 in Cr.No.964 of 2018 and later he was ordered to be released on bail by this Court in Crl.OP.No.23043 of 2018 dated 12.10.2018. Thereafter, the respondent has completed the investigation and filed the final report and the case had been originally taken on file before the Special Court for the exclusive trial of POCSO Act cases, Chennai in SC.No.72 of 2019 and during 2020, the trial Court had issued summons and on account of Covid pandemic, the petitioner was unable to appear before the Court. Whiles, the case has been transferred to the Sessions Judge, Mahalir Neethimandram, POCSO Act cases, Chennai in



Spl.SC.No.94 of 2023. Since, the petitioner was not issued with any summons and straight away the Court had issued NBW of arrest on the petitioner. Pursuant to which, the petitioner is apprehending arrest, he would further submit that it is the case of love affair, where the defacto complainant/father of the victim had given the complaint that the petitioner had kidnapped her daughter, later after intervention of family members of both parties marriage has been performed and the victim has also delivered a child. Now, both the petitioner as well as the victim have also attained majority and they compromised the issue and the child is aged about 2 1/2 years. He would submit that the petitioner as well as the victim and their family members are taking steps to file the quash petition for quashing the proceedings by filing joint memo of compromise and he would submit that due to the pendency of the NBW, the petitioner is unable to surrender before the Court fearing that he might be remanded to custody.

3. The learned Government Advocate (crl.side) would submit that originally the case was pending on the file of the Special Court for the exclusive trial of POCSO Act cases, Chennai in SC.No.72 of 2019 and later the case has been transferred to the file of the Sessions Judge, Magalir Nethimandram, POCSO Act cases, Chennai and taken up in Spl.SC.No.94 of 2023, since the petitioner did not appeared before the Court, the trial Court had issued NBW of



arrest against the petitioner on 18.12.2020 and he would objected for grant of bail. The next date of hearing was fixed before the trial Court on 05.05.2023.

4. Heard both sides and perused the materials available on record.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Government Advocate (Crl.side), this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Sessions Judge, Magalir Nethimandram, Mahila Court, Chennai, on condition that the petitioner shall execute a separate bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each with two sureties, out of which one surety should be father or mother of the petitioner, 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 Sessions Judge, Magalir Nethimandram, Mahila Court, Chennai on all working days at 10.30am for a period of two weeks and thereafter on the hearing dates fixed by the trial Court.

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

With the above directions, this Criminal Original Petition is ordered.

28.03.2023

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