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CrI.O.P.No.7025 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 Section 9 of the Prohibition of Child Marriage Act, 2006 and Sections 5(l), 5(j)(ii) and 6 of the Protection of Child from Sexual Offences (POCSO) Act 2012, in Crime No.9 of 2023, seeks anticipatory bail.

2. The case was registered against the petitioner on the complaint given by the Member, Child Welfare Committee, Perambalur District. As per the complaint dated 25.02.2023, petitioner/accused had married a 16 years old girl (victim) on 27.01.2022 and had committed penetrative sexual assault on the victim girl, due to which, the victim girl had become pregnant. 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



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alleged by the prosecution and he has been falsely roped into this case.

He further submitted that the petitioner and the victim girl are closed relatives and there was a love affair between them and without understanding the consequences and rigours of POCSO Act, had consensual affair/relationship between themselves due to which, the victim girl had become pregnant. He further submitted that both the petitioner and the victim girl's family members are poor villagers, who don't have any educational back ground and that without understanding the consequences and rigours of POCSO Act, they had performed the marriage between the petitioner and the victim girl, to save honour of the family and later an information was given to the Child Welfare Committee, through some one in the same village and thereby, the case has been registered. He further submitted that the victim girl was secured and the 164 Statement has also been recorded from the victim girl, wherein, she has not made any allegations against the petitioner. He further submitted that the petitioner has no previous case against him. He also submitted that the petitioner is ready and willing to furnish solvent sureties and abide by any stringent condition that may be



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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 police submitted that the petitioner has been arrayed as an first accused in this case. He further submitted that the child marriage of the victim girl with the petitioner was performed by their parents on 27.01.2022, due to which, the victim girl is now pregnant by three months. He further submitted that there is no previous case pending as against the petitioner. He further submitted 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 entire 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 counsel on either sides and also taking



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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 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.



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[b] **the petitioner shall report before the respondent police every day 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 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.

05.04.2023

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