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Crl.O.P.No.7314 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 Prohibition of Child Marriage Act 2004 and Section 5(1) read with 6 of Protection of Children from Sexual Offences Act 2012 in Crime No.1 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had married the minor girl and they had lived as husband and wife. Later the petitioner had harassed her and committed cruelty on her and driven her out from the matrimonial home. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl are known to each



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other for a long time and there was a love affair between them. The victim had informed him that she was a major. Believing the same, the petitioner married the victim girl at Thanthoni Amman Temple, Thoppapatti Village and after marriage, they lived as husband and wife. During such time, there was some misunderstanding and the petitioner chided the victim girl due to which, the victim girl had gone out of the matrimonial home and given a false complaint against the petitioner. He further submitted that the petitioner admits the marriage between him and the victim girl. However, since the victim girl has not attained majority, she is now under the custody of the parents of the petitioner who have also agreed to arrange the marriage between the petitioner and the victim girl after the victim girl attains majority. Further the petitioner has also filed an affidavit before this Court consenting to perform legal marriage with the victim girl after she attaining the marriageable age. Further, the petitioner understands that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein, she has stated that the relationship between her and the petitioner is a consensual relationship. Hence, he prayed to grant anticipatory bail to the petitioner.



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4. The learned Government Advocate (Crl.Side) appearing for the respondent opposed for grant of anticipatory bail to the petitioner stating that the petitioner is aged about 24 years and he had induced the minor victim girl and married her at a temple and thereafter, lived with her as husband and wife. Later, he assaulted her and driven her out from the matrimonial home. However, he would submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein, she has stated that the relationship between her and the petitioner is a consensual relationship.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR and the statement of the victim girl recorded under Section 164 Cr.P.C.

6.Taking note of the facts and circumstances of the case and the submissions made by the learned counsel on either side and also



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taking into consideration of the affidavit dated 17.04.2023 filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioners 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 Fast Track Court (Mahila Court), Namakkal**, 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.



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[b] the petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of four weeks and thereafter, every Saturday 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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