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Crl.O.P.No.8350 of 2023

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and

Crl.M.P.No.6865 of 2023

A.D.JAGADISH CHANDIRA, J.,

The petitioner, who apprehends arrest at the hands of the respondent/ Police for the offences punishable under Sections 9(f), 10, 17 of POCSO Act in Crime No.12 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Jaya is that her grand daughters used to attend prayer meeting conducted by A1 and A2 and they had gone to the prayer meeting, but did not return back home. Her daughter-in-law Eliza has stated that her daughters were getting good food and dress and let them stay in the prayer house itself. When the de-facto complainant had gone to the prayer house and asked them to send the grand children back, the accused persons have refused to send them. On 30.10.2022, one Samuel Ignitious, who was working in the prayer house informed her that A1/ Pastor had sexually abused elder grand daughter of the de-facto complainant by sending obscene whatsapp messages and that the second



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accused who is the wife of the Pastor and A3 to A5 who were working along with the Pastor, had threatened her grand daughters that they should not disclose the sexual abuse made by the Pastor. Hence the complaint. Originally, a case was registered by the All Women Police, Madipakkam on 06.11.2022 for the offences under Section 9(f), 10 and 17 of the POCSO Act and later, on 09.11.2022, since the victim belonged to SC community, the offences were altered into one under the provisions of the SC/ST (POA) Act.

3. The learned counsel for the petitioner submitted that the petitioner/A5 is an innocent person and he has been falsely roped in this case. Other than being a driver of the first accused/Pastor, the petitioner has nothing to do with the alleged offence. He further submitted that there was property dispute between the second accused and her step-brother. One politician, named Emi, intervened and based on her instructions, a false case has been registered against the main accused. As per the complaint, the allegation against the petitioner is that he threatened the victim not to give any complaint as against the main



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accused. The main accused has been enlarged on statutory bail by the Court below. Further, the petitioner has also ample evidence to show, by way of video recording that the said Emi had threatened the victims to give a false complaint against the main accused. Though the case has been registered for the offence under the provisions of the POCSO Act and also for the offences under the provisions of SC/ST (POA) act, there is no allegation against the petitioner as if he had sexually abused the victim or threatened the victim since they belonged to SC Community. The petitioner himself is a member of the Hindu Adi Dravidar Community and thereby the offences under the SC/ST (POA) Act cannot be made out against him.

4. The learned Government Advocate (Criminal Side) appearing for the respondent/Police submitted that the petitioner herein is arrayed as A5 in this case. He is the driver of the main accused. The allegation against the main accused is that he had sexually abused the victim girl by sending obscene whatsapp messages and misbehaved with the victim. The petitioner, who is close associate of the main accused,



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while taking the victim in a car, had threatened the victim not to give any complaint against the main accused. He would submit that there is no allegation of sexual assault as against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Learned counsel for the intervenor has submitted that the petitioner is not only the driver of the main accused, but also a close associate of the main accused and he is the person who had done all illegal activities on behalf of the main accused. The petitioner had also abetted the father of one of the victims and to commit suicide and F.I.R has also been registered.

6. In reply, the learned counsel for the petitioner submitted that the petitioner is not an accused in that case.

7. Heard both sides and perused the materials available on record including the FIR.



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8. Taking into consideration the facts and circumstances of the case and also the fact that the petitioner is a member of Adi Dravidar Community and no specific allegation has been made out against the petitioner with regard to sexual assault on the victim and under the SC/ST (POA) Act, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. 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 Judicial Magistrate No.I at Alandur**, 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 :



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[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioners shall stay at Madurai and report before the Thallakulam Police every day at 10.00 a.m., for a period of four weeks and thereafter report before the respondent police every Saturday at 10.30 am., until further orders.

[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] 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 petitioners released on bail by the learned Magistrate/Trial Court, as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

[g] if the petitioner herein thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.



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10. Accordingly, the Criminal Original Petition is ordered.

Consequently, connected miscellaneous petition is closed.

06.06.2023

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Note: Issue Order Copy on 12.06.2023

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