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Crl.O.P.No.8706 of 2023

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A.D.JAGADISH CHANDIRA,J.

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 366, 341 r/w 9, 10, 5(1), 6 of POCSO Act, 2012 in Crime No.02 of 2023, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Mariyammal is that her minor daughter xxxxx aged 16 years was studying in school and she used to go to school with one Subash, son of Selvam, who stalked her and harassed her. While she was unable to bear the harassment of the said Subash, the defacto complainant left her daughter in her sister's house on 13.04.2022 and later her sister informed that her daughter was missing and based on that she gave a complaint against the said Subash and her parents. Based on the complaint, a case was registered against Subhash suspecting that he had kidnapped her daughter. Later, during the course of investigation, it came to light that the defacto complainant had performed child marriage for her daughter

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with one Ranjith and that when the minor was at the house of said Ranjith, he and his family members harassed her, due to which, the victim ran away from the matrimonial home and went to the house of Subhash and stayed along with him at Bangalore and later the girl/victim was rescued. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners and the defacto complainant are the residents of the same village. While so, the first petitioner knowing that the victim who is the daughter of the defacto complainant had been married off, further came to know that the defacto complainant herself had performed the child marriage of her daughter with one Ranjith against the will of the victim. Later the said Ranjith and the family members harassed her and thereafter the victim eloped from the house following which, the victim girl came to the house of the first petitioner and later she was taken to Bangalore where she was at the 1st petitioner's house. He would further submit that the statement under



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Section 164 Cr.P.C has been recorded from the victim. He further submits that she has not made any allegation against the first petitioner or anyone in respect of sexual assault. He further submits that he is willing to abide by any condition that may be imposed by this Court. He would further submit that the victim was with the petitioner and refused to go along with her parents.

4. The learned Government Advocate (Crl.Side) would submit that the first petitioner and the defacto complainant are residents of the same village. He had obtained knowledge that the victim's mother/defacto complainant had performed the child marriage of the victim with one Ranjith after which she ran away. He would submit that the victim has not made any allegation against the petitioner. However, he objects for grant of anticipatory bail to the petitioners.

5. Heard the learned counsel and perused the entire materials available on record.



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6.Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsel, this Court is inclined to grant bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the **learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem,** on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners 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 petitioners shall report before the respondent police station everyday at 10.30 a.m, for a period of two weeks and thereafter the first petitioner shall alone appear before the respondent police on every Saturday at 10.30 a.m until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

12.06.2023

drl

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