



Crl.O.P.No.9578 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 366 IPC and Section 6 of POCSO Act, 2012**, in Crime No.315 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Rabiya is that her minor daughter aged about 17 years was found missing from her house on 14.11.2022 and based on her complaint, a case in Crime No.315 of 2022 was initially registered for “Girl Missing” and during the Course of investigation, it came to light that the petitioner had kidnapped the minor girl and committed penetrative sexual assault on her. Hence, the case was altered to Section 366 IPC and Section 6 of POCSO Act, 2012.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would 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 her and the petitioner and that the victim girl had voluntarily went along with the petitioner. He would also submit that now the victim girl is aged 17 ½ years and she has also expressed her willingness to marry the petitioner after attaining majority. Hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (CrI. Side) appearing for the respondent vehemently opposed for grant of anticipatory bail to the petitioner stating that the petitioner had removed the custody of the minor daughter of the defacto complainant from her lawful guardian and later, committed penetrative sexual assault on her. However, he would submit that in the statement recorded from the victim girl under Section 164 Cr.P.C., she has admitted about the love affair between her and the petitioner and that she had voluntarily eloped along with the petitioner.



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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 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, 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 III Metropolitan Magistrate, George Town, Chennai**, 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



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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 respondent police everyday at 10.30 a.m. for a period of two 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].



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[f] If the accused thereafter absconds, a fresh
FIR can be registered under Section 229A IPC.

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