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Crl.O.P.No.10268 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 Sections 363 and 366 of I.P.C in Crime No.54 of 2022, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Jeyanthi is that the first accused Thenmozhi is her sister. There was a family dispute pending between her and her sister. While so, in order to wreck vengeance, the first accused along with her two son-in-laws and brother of the second son-in-law/ the petitioner herein had kidnapped her minor daughter aged about 17 years from her custody. Based on the complaint, a case in Cr.No.54 of 2022 was registered against Thenmozhi and her two son-in-laws and the petitioner herein for the offence under Section 363 and 366 of IPC.



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3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given against him. He would further submit that the petitioner was having love affair with the daughter of the defacto complainant who is aged about 17 years and without understanding the consequences and rigors of the POCSO Act, they have gone away from the house and they have stayed in the Hotel and later came to know about the registration of the complaint, the petitioner and the daughter of the defacto complainant appeared before the respondent police station and the victim girl was taken in custody by the police. He would further submit that the petitioner understands that the statement has been recorded from the victim under Section 164 of Cr.P.C, wherein, she was admitted about the relationship between the petitioner and her and thereby he would seek bail for the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent Police would submit that the petitioner is the brother of the second son-in-law of the first accused. There was existing civil



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dispute between the first accused Thenmozhi and the defacto complainant, on the instigation of the said Thenmozhi, the petitioner along with other accused had kidnapped the victim girl and thereafter had committed penetrative sexual assault. Further, he also submit that the statement has been recorded from the victim under Section 164 of Cr.P.C wherein she had stated that the relationship between her and the petitioner was consensual in nature and the age of the victim is above 17 years. Hence he opposed for grant of anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. Taking into consideration the facts of the case and the submissions of the learned Counsel for the parties, 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 her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Additional**



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Mahila Court at Salem 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.

[b] the petitioner shall report before the respondent police daily at 10:30 a.m until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;



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[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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