



Crl.O.P.No.10228 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 offence punishable under Sections 6, 5(i), 14, 13, 16, 17 of Protection of Children from Sexual Offences Act, Section 4 of Dowry Prohibition Act and Section 417 of IPC in Crime No.43 of 2021, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant/XXXX, aged 17 years is that when she was a minor, the accused had proposed for marriage between her and one Vinothkumar/A1 and the engagement was performed. Thereafter, A1 on the assurance that he is the person, who is going to marry her, had taken her to several places, had sexual intercourse with her and later, he has refused to marry her. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner is an innocent person and other than being the aunt of A1, she has



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nothing to do with the alleged offence. He further submitted that A1 has been arrested and later, enlarged on bail. He further submitted that the allegations as against the petitioner is that she being the relative of A1, is stated to have been stopped the marriage. He further submitted that the petitioner was earlier granted anticipatory bail by the learned Special Judge for exclusive trial of cases under POCSO Act cases, Salem in Crl.M.P.No.209 of 2022 on 20.04.2022 with a condition to deposit a sum of Rs.50,000/-. However since the petitioner was unable to deposit the amount, the earlier anticipatory bail granted in respect of the petitioner has been lapsed. Thereby, the present petition has been filed. He also submitted that the other accused have also been granted anticipatory bail on 02.11.2021 itself and the petitioner understands that the investigation has been completed and the respondent has also filed the final report before the learned Special Judge for exclusive trial of cases under POCSO Act, Salem. Hence, he prayed for grant of anticipatory bail to the petitioner.



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4. Learned Government Advocate (crl.side) for the respondent submitted that when the defacto complainant was a minor, the accused had proposed for marriage between her and one Vinothkumar/A1 and the engagement was performed. Thereafter, A1, on the assurance of marrying her, had taken the defacto complainant to several places, had sexual intercourse with her and later, refused to marry her. He further submitted that the investigation has been completed. However, he opposed for grant of anticipatory bail to the petitioner.

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

6. Taking into consideration the facts and circumstances of the case, the submissions of 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



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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 Special District Judge, POCSO Court, Salem District**, on condition that the petitioners 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 his Aadhar card or Bank pass Book to ensure their identity.

**[b] the petitioner shall report before the learned Special District Judge, POCSO Court, Salem District, on all working days at 10.30 a.m., for a period of two weeks and thereafter, on the date fixed by the learned trial Judge;**

[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.

**09.06.2023**

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**A.D.JAGADISH CHANDIRA, J.**

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