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Crl.O.P.No.10614 of 2023

G.CHANDRASEKHARAN. J.

The petitioner namely A.Vasu, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 366 IPC and 5(I), 5(j)(ii) and 6 of POCSO Act, 2012 in Crime No.19 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. Learned counsel for the petitioner submitted that, petitioner is falsely implicated in this case in Crime No.19 of 2022 for the offences under Sections 366 IPC and 5(I), 5(j)(ii) and 6 of POCSO Act, 2012. It is his further submission that, petitioner is prepared to co-operate with the investigation, even to undertake any medical examination, including DNA test. Apprehending arrest at the hands of the respondent, this petition is filed.

3. Learned Government Advocate (Criminal side), opposes this petition, on the ground that, as per the first information report allegations, the accused in this case namely Jagatheswaran and this petitioner Vasu had sexual relationship with the victim girl. As a result, she became pregnant. Unless petitioner is secured, and medical examination is conducted, paternity

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of the foetus would not be known. Thus, he prays for dismissal of this petition.

4. Considered the submissions and perused the records.

5. The reading of the first information report shows that, the defacto complainant namely mother of the victim girl alleged that, one Jagatheswaran and Vasu had sexual relationship with her daughter. However, in the Statement of victim girl recorded under Section 164 Cr.P.C , she stated that, only Jagatheswaran had sexual relationship with her. She has not stated anything about Vasu, especially with regard to the allegation that, Vasu had sexual relationship with her.

6. In the light of the above facts and circumstances, and that material part of the investigation might have been over by this time, this Court is of the view that, custodial interrogation of the petitioner is not necessary and 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 Special Judge POCSO Court,**

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Villupuram, on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five 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 co-operate with the investigating agency for medical examination, including DNA test.

[c] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

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

02.08.2023

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