



Crl.O.P.No.12116 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 Girl Missing @ 363 and 366 of IPC and 5(1) r/w 6 of POCSO Act, in Crime No.75 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Gayathri is that her minor daughter aged about 17 years was found missing and based on her complaint, the case in Crime No.75 of 2023 was originally registered “for girl missing” and during the course of investigation, it came to light that the petitioner had abducted the daughter of the defacto complainant and had committed penetrative sexual assault on her. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been registered against him. He would further submit that the the petitioner and the



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victim girl are close relatives and that the petitioner is none other than the cousin of the victim girl. The victim girl had crush on the petitioner and since it was objected by her parents, she eloped from her house and joined the petitioner and the petitioner without understanding the rigours and consequences of the POCSO Act, had lived with the victim girl for 10 days and during such time, they had consensual sexual relationship. Thereafter, on coming to know about the registration of the case, the petitioner had sent back the victim. Thereafter, the case came to be altered. He would submit that the relationship between the petitioner and the victim girl is consensual in nature. Hence, he would pray for the grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner had abducted the daughter of the defacto complainant who is minor and had committed penetrative sexual assault on her. Hence, he vehemently opposed to the grant anticipatory bail to the petitioner.



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

6. Taking into consideration the facts and circumstances of the case, 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 learned Fast Track Mahila Court, Dharmapuri**, 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:



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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