



Crl.OP.No.13199 of 2023

A.D.JAGADISH CHANDIRA, J.

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The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 363, 366, 376(2)(n) of IPC r/w Sections 5(1), 5(j)(ii) and 6 of POCSO Act 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.4 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner had induced the minor victim girl and had taken out from her house and performed child marriage and also committed penetrative sexual assault on her and due to which, the victim had become pregnant. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner and the victim are close relatives. She had completed 17 years and her father is no more. There was a love affair between the petitioner and the defacto complainant for a long time and that the victim had agreed to marry the petitioner and thereby without understanding the consequences and rigors of the POCSO Act and Child Marriage Act, they have performed marriage in a Temple and thereafter they have lived as husband and wife, due to which, the victim has become pregnant. He would further submit that



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the petitioner is also ready to perform the legal marriage as and when the victim attains majority. He would further submit that the petitioner admits that he is responsible for the pregnancy. He also submit that the petitioner also understands that a statement has been recorded from the victim girl under Section 164 of Cr.P.C, wherein, she has admitted the entire facts. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner had kidnapped the minor victim girl and performed child marriage and had committed sexual assault, due to which, she become pregnant. Hence, he would vehemently oppose to grant anticipatory bail to the petitioners.

5. Heard the submissions made by both counsel and perused the materials available on record including 164 statement recorded from the victim girl.

6. Taking into consideration the facts and the submissions made by the counsel, this Court is inclined to grant anticipatory bail 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 Judicial Magistrate, Vandavasi* 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 every day at 10.30 a.m for a period of two weeks and thereafter on every Saturday at 10.30 a.m., until further orders.

[c] in the event of the respondent police filing a petition seeking for DNA test, the petitioner shall offer blood samples;

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



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

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[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.

15.06.2023

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Vv

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