



Crl.O.P.No.14550 of 2023

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G.CHANDRASEKHARAN. J.

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 3 of POCSO Act, in Crime No.499 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. Learned counsel for the petitioner submitted that FIR in Crime No.499 of 2021 was initially registered under the caption 'girl missing' and subsequently altered to Section 3 of POCSO Act. He further submitted that the petitioner has not committed any sexual assault or harassment against the victim girl and prayed for anticipatory bail for the petitioner.

3. In response, the learned Government Advocate (Crl.Side) submitted that when the complaint was given, it was specifically alleged that petitioner had committed the offence of sexual assault against the minor girl. However, while giving statement under Section 164 Cr.P.C., victim girl has not stated anything about the sexual assault alleged to



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have been committed by the petitioner against the victim girl. It is now submitted that the victim girl had married another person.

4.Considered the rival submissions and perused the records.

5.It is seen from the alteration report that it was alleged that petitioner had indulged in committing sexual assault against the victim girl. However, when giving statement under Section 164 Cr.P.C., victim girl has only stated that petitioner and his mother insisted her to marry the petitioner. When a specific question was asked by the learned Judicial Magistrate, who recorded the statement of the victim girl Section 164 Cr.P.C., as to whether the petitioner had committed any sexual offences against the victim girl, victim girl denied petitioner committing any sexual assault against her. Thus, it is seen from the records that there is obvious contradictions with regard to the manner in which the offence alleged to have been committed by the petitioner.



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6.Taking note of the factual matrix in this case and obvious contradictions in the earlier statement and the subsequent statement recorded under Section 164 Cr.P.C., with regard to the manner in which the offence alleged to have been committed, this Court is of the view that the petitioner may be released on anticipatory bail. Therefore, 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 Sessions Judge Mahila Court, Thiruvallur**, 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.



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[b] the petitioner shall report before the respondent police everyday 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].

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

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