



Crl.O.P.No.14231 of 2023

WEB COPY

Crl.OP.No.14231 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 363, 366 IPC and Section 9 r/w 10 of the Prohibition of Child Marriage Act, 2006 and Sections 5(l) r/w 6 of the POCSO Act, 2012 in Cr.No.26 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner had kidnaped the minor victim girl aged about 16 years and the second petitioner had performed child marriage. Pursuant to which, the first petitioner had committed penetrative sexual assault on the victim girl. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner has been falsely implicated in the case and he has nothing to do with the said allegation. He would further submit that the first petitioner and the victim girl are known to each other for a long time and there was a love affair and that the petitioner, without understanding the consequences and rigors of POCSO Act had gone along with the victim girl. During such time, they were in a consensual physical affair. He would further submit that coming to know



Crl.O.P.No.14231 of 2023

WEB COPY

about the registration of the case, the victim had gone back to her home and on the instigation of her parents, she has given a false complaint. Hence, he prays to grant anticipatory bail to the petitioners.

4. Learned Government Advocate (Crl.Side) for the respondent police would submit that the first petitioner had kidnapped the minor victim girl and had committed penetrative sexual assault. The second petitioner who is the uncle of the first petitioner had helped them in performing child marriage. Hence, he opposed to grant anticipatory bail to the petitioners.

5. Heard both sides and perused the materials available on record including the FIR and the statement under Section 164(5) Cr.P.C.

6. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



CrI.O.P.No.14231 of 2023

WEB COPY

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri on condition that the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties 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 petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioners shall report before respondent police daily at 10.30 a.m., until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial;



WEB COPY



CrI.O.P.No.14231 of 2023

A.D.JAGADISH CHANDIRA,J.

Anu

[d] the petitioner shall not abscond either during investigation or trial;

[e] 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 petitioners released on bail by the learned Magistrate/Trial Court, as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

[f] if the petitioner herein thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

27.06.2023

Anu

CrI.O.P.No.14231 of 2023