



Crl.O.P.No.18283 of 2023

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WEB C RMT.TEEKAA RAMAN, J.

The Petitioners, who apprehend arrest at the hands of the Respondent police for the offence punishable under Sections 9 and 10 of Prohibition of Child Marriage Act @ under Sections 7 and 8 of POCSO Act r/w. Sections.9, 10 of Prohibition of Child Marriage Act in Crime No.26 of 2023 on the file of the Respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto-complainant Mrs.Muthunachiar, who is working as a social welfare officer lodged a complaint dated 28.05.2023 against the Petitioners alleging that on 24.05.2023 the defacto-complainant got message that child marriage was held to one Anu @ Devagi who is aged about 17 years, residing at South Street, Pudhukuppam. Immediately the defacto complainant rushed to the spot along with other officials and came to know that already marriage was held between the 1st Petitioner and Anu @ Devagi at Sri Kanniga Parameshwari Temple and the same was questioned by the defacto-complainant and the Petitioner gave evasive reply.

3.The learned Counsel for the Petitioners would submit that the first Petitioner and the said Anu @ Devagi are the family members and moreover they are relatives. Already marriage proposal between both the family members



were initiated after attaining the age of majority of the said Anu @ Devagi. The defacto-complainant lodged a false case against these Petitioners. The Petitioners have not committed any offences as alleged by the defacto-complainant and they are innocent. The Petitioners are no way connected with the present case, their names were falsely implicated in this case. Hence, the learned counsel for the Petitioners prays for grant of anticipatory bail to the Petitioners.

4.The learned Government Advocate (Crl. Side) for the Respondent is vehemently opposed to grant anticipatory bail to the Petitioners and he has produced the statement of the victim girl recorded under Section 164 (5) of Cr.P.C.,.

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

6.Taking into consideration the facts and the submissions made by the learned counsel on either sides and the nature and gravity of the alleged offence and the statement of the victim girl recorded under Section 164(5) Cr.P.C., which disclosed the age of the victim girl (ie.,) closure to 18 years, it appears that it is not supporting the case of the prosecution. Hence, this Court is inclined to grant anticipatory bail to the Petitioners with certain conditions.

7.Accordingly, the Petitioners are ordered to be released on bail in the



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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 District Munsif cum Judicial Magistrate, Tharangampadi, Mayiladuthurai District** on condition that the Petitioners shall execute a separate 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 Petitioners 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 Petitioners shall report before the Respondent Police, on everyday at 10.30 am for a period of six weeks and thereafter as and when required;

[c] the Petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the Petitioners 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 Petitioners in accordance with law as if the



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conditions have been imposed and the Petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

21.08.2023

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