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Crl.O.P.No.20494 of 2023

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Reserved On	07.09.2023
Pronounced On	15.09.2023

RMT.TEEKAA RAMAN, J.

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the alleged offences under **Sections 294(b), 323, 363 & 506(1) of IPC r/w 4 of Women Harassment Act in Crime No.69 of 2023** on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the marriage between the petitioner and the *de-facto* complainant/Mrs.Francy Salmona was solemnized on 25.08.2011. While the matrimonial proceedings are pending between them, that the petitioner/A1 had illegally taken his daughter/Jelicia Steny aged about 8 years from the tuition centre and also abused and threatened the tuition teacher. Hence, the complaint.



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3. Mr.Parivallal, learned counsel appearing for the petitioner would state that the marriage between the *de-facto* complainant/Mrs.Francy Salmona and the petitioner/A1 has taken place on 25.08.2011 according to the Christian customs and rites and they begotten two children Viz., Jelicia Steny, aged about 9 years and John Michael, aged about 5 years. Due to a matrimonial discord, the wife left the matrimonial home some years ago and the petitioner herein is alleged that he is having illicit intimacy with one Ebingae. Subsequently, the *de-facto* complainant has filed a divorce petition before the Chengalpet Court in I.D.O.P.No.103 of 2023 and the same is pending and hence, earlier a false case has been foisted as if he has kidnapped the son.

4. The learned counsel for the petitioner drawn my attention to the earlier proceedings, wherein the *de-facto* complainant/wife gave a complaint as if the petitioner has kidnapped the boy and has filed HCP.No.933 of 2023. After notice, the Division Bench of this Court has observed that the parties are directed to take appropriate steps under the Guardians and Wards



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Act, 1890 before the Court and the boy was also produced before the Division Bench. Thereafter, the boy was allowed to continue in the care and custody of the petitioner/father and thereafter, the respondent police have filed a closure report in the Crime No.45 of 2023 on 11.05.2023 referring the complaint given by the *de-facto* complainant/wife as 'Mistake of Fact', wherein it is observed that the *de-facto* complainant has given a false complaint against the petitioner.

5. After closure of the Crime No.45 of 2023 on 06.07.2023, the closure report was filed before the concerned learned Judicial Magistrate. Thereafter, the mother/*de-facto* complainant has filed another Crime No.69 of 2023 alleging that the petitioner/accused/father has taken away the daughter also. The relevant documents were produced in the typed set.

6. Mr.N.Naresh, learned counsel appearing for the *de-facto* complainant would contend that after filing of the divorce petition, he has taken such an extreme step and strongly opposed for grant of anticipatory bail to the petitioner.



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7. After going through the earlier proceedings between the parties, pendency of the divorce proceedings in I.D.O.P.No.103 of 2023, HCP proceedings in HCP.No.933 of 2023 dated 28.06.2023 and the closure report filed by the respondent police in Crime No.45 of 2023 dated 06.07.2023, I am not expressing any view except to say that there is a matrimonial discord between the parties and hence, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, 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 No.II, Hosur, Krishnagiri District**, 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



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

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