



Crl.O.P.No.31445 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence under Sections 5(i), 5(j)(ii), 6 of Protection of Children from Sexual Offences Act, 2012, and Section 9 of the Prevention of Child Marriage Act, 2006, in Crime No.41 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner, who is an Army man had love affair with the minor victim girl, eloped and got married on 17.12.2021. Out of their wedlock, the victim had delivered one child. While so, the petitioner went to the place of his service at Rajasthan. Later, the petitioner had refused to continue his marital life with the victim girl. Hence the case.

3. The petitioner/accused had filed a petition in Crl.O.P.No.31445 of 2022 before this Court seeking anticipatory bail and when the matter was listed for hearing on 21.12.2022, this Court had directed the petitioner and the victim to appear before this Court on 05.01.2023. On 05.01.2023, the petitioner/accused and



the victim girl were present before this Court. This Court (Hon'ble Justice T.V.Thamilselvi), taking note of the undertaking given by the petitioner that he will take his wife and child along with him within two months and also considering the willingness expressed by the wife to live with the petitioner, had granted interim anticipatory bail to the petitioner and imposed the following conditions and posted the matter for reporting compliance on 02.03.2023.

"(i) The petitioner is granted interim anticipatory bail till 02.03.2023 and the respondent is directed not to arrest the petitioner till 02.03.2023.

(ii) the petitioner shall take his wife and child along with him within a period of two months from the date of receipt of copy of this order."

4. Thereafter, when the matter was taken up on 03.03.2023, the petitioner refused to take care of the victim and his child and also submitted that he was under suspension and his net salary is Rs.46,097/- and this Court, finding that the victim girl had married the petitioner without consent of her parents and she is living with her four months old child without any source of income, had directed the petitioner to deposit a sum of Rs.15,000/- every month as interim maintenance to the credit of Account No.821711610000945 IFSC Code : BKID0008217, Bank of India, Krishnagiri Branch, until modified by any Court of law and also extended the



interim bail till 28.04.2023. After few adjournments, the matter was listed on 07.06.2023, during which, the learned counsel for the petitioner submitted that he was unable to contact his client and also not aware whether the condition imposed by this Court is complied with or not. On the same day, this Court *suo motu* impleaded the Administrative Commandant, Station Head Quarters, Fort St. George, Chennai - 9, so as to get the particulars and whereabouts of the petitioner.

5. Thereafter, when the matter was taken up on 16.10.2023, the learned counsel for the petitioner submitted that it is the case of love affair and the petitioner, who is rendering service in Army, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had indulged in consensual affair with the victim, who was aged about 17 years, and due to which, the victim had delivered a child. He also submitted that the victim had attained majority and the petitioner is also ready to legalise their marriage and he is also ready to accept the victim as well as the child. He further submitted that the petitioner also undertakes that the necessary and relevant entries would be made in his service record and he is ready to pay the entire arrears amount and thereafter, on the request made by the learned Government Advocate (Crl.Side), the matter was adjourned to 18.10.2023.



6. When the matter was taken up on 18.10.2023, the learned counsel for the petitioner was directed to serve copy of the petitioner's Identify Card issued by the Army Authorities to Mr.Chandrasekaran, learned Senior Panel Counsel for Government of India appearing for the newly impleaded second respondent, to enable him to get service particulars of the petitioner and also directed the petitioner to appear before this Court on 20.10.2023.

7. On 20.10.2023, the petitioner appeared before this Court and the learned counsel for the petitioner submitted that the petitioner is ready to comply with the conditional order passed by this Court and sought for short accommodation to pay a sum of Rs.1,50,000/- which was accrued till date and the petitioner had also undertaken to pay monthly maintenance periodically. Thereby, the matter was listed today for production of the demand draft for a sum of Rs.1,50,000/-.

8. Today, when the matter is taken up for hearing, the petitioner failed to appear before this Court and he has taken a U turn and had informed his counsel through phone that he is not ready to take care of the victim girl and his child and also refused to pay the amount and is ready to face the consequences.



9. Learned counsel for the intervenor submitted that the petitioner had ravished the victim girl when she was minor, due to which, the victim delivered a child. He further submitted that the petitioner had abused the victim to satisfy his lust and thereafter, refusing to live with her and the child. He also submitted that the *de facto* complainant understands that the petitioner has now absconded from the Army and he is also taking effective steps to sell the properties belonging to him and intended to leave the victim and the child in a lurch. He also submitted that on an earlier occasion, the petitioner has also attempted to do away with the victim girl and her child and thereby, the victim girl is not ready to live with the petitioner, since she apprehends that her life is at risk if she goes along with the petitioner.

10. Mr.Chandrasekaran, learned Senior Panel Counsel, on instructions from the Army Officials submitted that the petitioner has deserted the Army and he has been declared as an absconder from 12.08.2023.

11. Mr.C.E.Pratap, Learned Government Advocate (Crl.Side) submitted that it is the case where the petitioner had ravished the victim girl when she was minor and due to which, she become pregnant and delivered a child. He also submitted that the DNA test also proves that the petitioner is the father of the child



born to the victim girl. The respondent Police have completed the investigation and they have filed the draft charge sheet on 16.09.2023 and it is yet to be taken on file.

He further submitted that other than appearing before the respondent Police for giving blood samples, the petitioner has not cooperated for investigation.

12. Heard the learned Counsels appearing on both sides and perused the materials available on record.

13. It is seen that the petitioner is charged for offences Sections 5(i), 5(j)(ii), 6 of Protection of Children from Sexual Offences Act, 2012, and Section 9 of the Prevention of Child Marriage Act, 2006 and the allegations against the petitioner is that he had committed penetrative sexual assault on the victim girl, daughter of the *de facto* complainant and due to which, she become pregnant and delivered a child. Based on the undertaking given by the petitioner that he is ready to legalise their marriage and to take care of the victim girl and the child, this Court had granted interim anticipatory bail imposing certain conditions. Despite the long time given to the petitioner, though he initially agreed to comply with the condition, is now refusing to comply with the same. It is also reported by the employer of the petitioner namely Army that the petitioner has been declared as an absconder.



Further, it is also reported by the learned counsel for the intervener that the petitioner is taking steps to dispose of his property and also made an attempt on the child's life.

14. From the conduct of the petitioner, it is seen that the petitioner has not only cheated the victim, he has also cheated this Court by giving a false undertaking and obtained interim anticipatory bail from this Court. Though initially the petitioner through his counsel had given an undertaken to take the victim and the child along with him to the place of his employment and got his marriage legalised, now he has taken a U turn and it shows the criminal intention of the petitioner. Further, now it is also reported that the petitioner is also attempted to do away the victim and her child and the victim had also expressed her unwillingness to go along with the petitioner, fearing the life of herself and child.

15. Taking into consideration the facts and the change of circumstances of the case and the submissions made by the learned counsels on either side, the order of interim anticipatory bail granted to the petitioner on 05.01.2023 stands cancelled. The Respondent Police is directed to take appropriate steps.



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16. Accordingly, this Criminal Original Petition stands dismissed.

30.10.2023

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