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Crl.O.P.No.26360 of 2023

Crl.O.P.No.26360 of 2023
and
Crl.M.P.No.19297 of 2023

C.V.KARTHIKEYAN, J.

The Criminal Miscellaneous petition has been filed seeking to amend the provision of law as under Sections 366 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Section 16 r/w. 17 of POCSO Act, 2012 @ under Section 366 of IPC, Sec.9 of Prohibition of Child Marriage Act, 2006 and Section 16 r/w. 17 & 5(1) r/w 6 of POCSO Act, 2012 instead of under Section 366 IPC, Sec. 9 of Prohibition of Child Marriage Act, 2006 and Sec. 16 r/w. 17 of POCSO Act, 2012.

2. This Crl.M.P.No.19297 of 2023 stands allowed.

3. Before issuing the order copy, Registry may incorporate the offences as Section 366 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Sec. 16 r/w 17 of POCSO Act 2012 @ under Section 366 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Section 16 r/w. 17 & 5(1) r/w 6 of POCSO Act, 2012.

4. The petitioners are A4 and A5 in Crime No.13 of 2023, the Aunt and mother of the first accused. A1, A2 and A3 had been arrested and



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granted bail. It is contended that they arranged the marriage of the victim child with the first accused. It is however stated that the victim child had been secured and is now under the care and protection of her mother. It is also the contention of the learned Counsel for the petitioner that the offences under the POCSO Act would not be attracted to the petitioners herein.

5. Taking all these factors into consideration, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. 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 **Judicial Magistrate IV, Salem**, on condition that the petitioner 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 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



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pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for the interrogation.

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

11.12.2023

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