



Crl.O.P.No.26813 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner is an accused in Crime No.36 of 2023 had been registered for the offences under Sections 5(1), 5(j)(ii), 6(1) of POCSO Act and 451 IPC seeks bail. The petitioner had been taken into custody on 17.10.2023

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side).

3.The very fact that the victim child is today nine months pregnant itself shows that the petitioner had admitted the offence. As on the date of the commission of the offence, the victim child was a minor. The respondent will not be able to commence their investigation and requisition has been issued for examination of the victim child under Section 164(5) Cr.P.C. But since she is in an advanced stage of pregnancy of nine months, the respondent will also have to be given some time before such statement is recorded.

4.The learned counsel for the petitioner placed reliance on a particular Circular of the Director General of Police, Tamil Nadu dated



Crl.O.P.No.26813 of 2023

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investigating officer should not be hasty in arresting youngsters involved in romantic relationships and must invoke Section 41A Cr.P.C in lieu of arrest.

5.This particular Circular is certainly not binding on this Court. As on this date, the victim child in this particular case is 9 months pregnant and the Investigating Officer cannot be expected to remain quiet and let the accused go scot free, having committed such an horrendous offence against the victim child. It is a Circular issued only to the investigating officer and it is not known whether romantic relationships, also involves physical relationship leading to impregnancy of young minor victim children.

6.The learned counsel for the petitioner also placed on record a Judgment, wherein, it had been stated that the provisions under Sections 41 and 41A Cr.P.C must be observed before arresting an accused. But in a case under POCSO Act, where the victim child had been sexually assaulted and aggravated penetrative sexual assault had been committed and where the medical opinion is given that the victim child had conceived and when law requires protection of the victim children, taking into custody of the accused is justified.



Crl.O.P.No.26813 of 2023

7.I am not inclined to agree with any of the contentions placed by the learned counsel for the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

8.The copy of this order may be forwarded to the Director General of Police to clarify whether romantic relationships also include aggravated penetrative sexual assault against the victim children, who have been impregnated by such aggravated penetrative sexual assault by the accused.

27.11.2023

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To
The Director General of Police,
Chennai



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Crl.O.P.No.26813 of 2023

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Crl.O.P.No.26813 of 2023

27.11.2023