



Crl.O.P.No.28341 of 2023

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C.V.KARTHIKEYAN, J.

The Petitioner, who apprehends arrest at the hands of the Respondent Police for the offence punishable under Sections 376(2)(n) IPC, 9 of Child Marriage Act read with Sections 5(1), 5(j)(ii) and 6 of POCSO Act in Crime No.30 of 2023 on the file of the Respondent Police, seeks anticipatory bail.

2. It is stated that the Petitioner is the uncle of the victim, who is a minor and the learned counsel states that the Petitioner had married the victim child. But however, such marriage, as on date, is void. The victim child is also in the family way, for four months. Medical examination will have to be done. DNA test will have to be conducted. All these processes are possible only when the Petitioner is secured. The Petitioner is the sole Accused. None of the family members are shown as Accused which means the Petitioner seems to have taken this step of getting into relationship with the victim child aged 18 years independently.



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3. The statement of the victim child had been recorded under Section 164(5) of Code of Criminal Procedure and the Court had the benefit of perusing the same.

4. Taking all that factors into consideration and particularly the said statement, this Court is inclined to grant anticipatory bail to the Petitioner with certain conditions that **the Petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.30 of 2023 and on such deposit, the learned Special Court for POCSO cases, Vellore may transfer the amount to the Fixed Deposit in the name of the victim child and put it for a period till the victim child attains the age of 20 years and thereafter, permit the victim child to withdraw the same.**

5. Accordingly, the 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 **POCSO Special Court, Vellore**, 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



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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 pass Book to ensure their identity.

[b] the Petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.30 of 2023 and on such deposit, the learned Special Court for POCSO cases, Vellore may transfer the amount to the Fixed Deposit in the name of the victim child and put it for a period till the victim child attains the age of 20 years and thereafter, permit the victim child to withdraw the same.

[c] the petitioner shall report before the Respondent Police daily at 10.30 a.m., until further orders and to co-operate during the course of investigation particularly while drawing of samples for the purpose of DNA test.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

20.12.2023

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