



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.220 of 2023

WEB COPY

Pandiyammal

...Petitioner/3rd Accused

-vs-

The State represented by
The Inspector of Police,
Thenkarai Police Station,
Theni District.
(in Cr.No.344 of 2022)

...Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of her arrest by the respondent Police with respect to Cr.No.344 of 2022.

For Petitioner	: Mr.K.Anandan, Advocate
For Respondent	: Mr.A.Albert James
	Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 366 IPC, Section 9 of Prohibition of Child Marriage Act and Sections 5(i), 5(i)(ii), 6 and 17 of POCSO Act in Crime No.344 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that based on the intimation from the Government Head Quarters Hospital, Periyakulam, that one minor victim was admitted for delivery, the respondent has recorded a statement from the victim girl, wherein, she has stated that she was in love with her relative one Karuppiah and that since her parents have not agreed for the marriage, they have eloped from the house and they lived at Tiruppur, where, they had physical affair, due to which, the victim girl became pregnant and thereafter, she returned back to her parents house from where, she was admitted in the hospital for delivery. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is the mother of the victim girl and the victim girl was in love with the first accused, Karuppiah, who is her close relative. However, since the petitioner has objected to the same, the victim girl eloped with the Karuppiah and both of them lived as



husband and wife at Tiruppur and she has become pregnant and the victim girl had returned back to her house and thereby, the petitioner had admitted her in Periyakulam Government Hospital for delivery and based on the intimation from the Doctors, the case came to be registered. He would submit that the petitioner is hailing from a lower strata of the society and she has not intimated the same to the Police without understanding the consequence and rigors of the POCSO Act.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the mother of the victim girl. The victim girl was in love with the first accused and they lived as husband and wife at Tiruppur, due to which, the victim became pregnant and admitted for delivery in the Periyakulam Government Head Quarters Hospital. He would submit that a statement under Section 164 Cr.P.C., has been recorded from the victim minor girl. He would oppose for grant of anticipatory bail to the petitioner.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R. and also the statement recorded from the victim girl under Section 164 Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

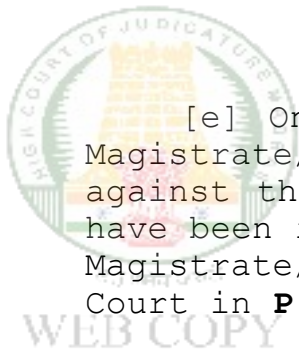
6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the Mahila Court, Theni, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (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 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 everyday at 10.30 a.m., for a period of one week and thereafter, every Saturday at 10.30 am 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]**.

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

sd/-

05/01/2023

/ TRUE COPY /

/01/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

cmr

TO

1.THE JUDGE, MAHILA COURT, THENI.

2 THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
THENI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s..ANANDAN K, Advocate (SR-261[I] dated 06/01/2023)

ORDER

IN

CRL OP(MD) No.220 of 2023

Date :05/01/2023

RK/SSS/SAR-2 (11/01/2023) 3P/5C