



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2023

PRESENT

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

WEB COPY

CRL.O.P(MD)No.562 of 2023

Santhanakaruppu

...Petitioner/Sole Accused

-vs-

The State represented by
The Inspector of Police,
All Women Police Station,
Samayanallur, Madurai District.
(in Cr.No.23 of 2022)

...Respondent/Complainant

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.23 of 2022.

For Petitioner : Mr.G.Kalidoss, 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 of IPC and Section 5(1), 5(j)(ii) r/w 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.23 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case in Cr.No.23 of 2022 came to be registered on the intimation given by the authorities of Madurai Rajaji Government Hospital that a minor girl born on 20.09.2016 was admitted for delivery and further based on the statement recorded from the victim girl, wherein, the victim girl had stated that she had developed love affair with the petitioner and she has compelled him to marry her and thereafter, they had consensual physical affair resulting in the victim became pregnant. Hence, the complaint.



3.The learned Counsel for the petitioner would submit the petitioner is an innocent and a false complaint has been given. He would also submit that the petitioner is aged about 19 years and the petitioner was having a love affair with the victim girl. He would further submit that the petitioner and the victim girl, without understanding the rigors and consequences of POCSO Act and the Prohibition of Child Marriage Act, had consensual affair, due to which, the victim girl became pregnant. He would further submit that the major part of the investigation is over and a statement has also been recorded from the victim girl under Section 164 Cr.P.C., wherein, she had stated that only on her compulsion, the petitioner had married her and later, she became pregnant due to the consensual affairs. He would further submit that the victim girl is aged about 17 years and the petitioner does not dispute the paternity of child and thereby, he would seek for anticipatory bail.

4.The learned Government Advocate (crl.side) would submit that the petitioner is aged about 19 years and the victim is aged about 16 years and above and that there was a love affair between them and there was a physical affair, due to which, the victim became pregnant. He would also submit that a statement has also been recorded from the victim girl under Section 164 Cr.P.C.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R. and the statement recorded from the victim minor girl under Section 164 of 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 his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate Vadipatti, Madurai District, 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 two weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioner shall not tamper with evidence or witness 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/-
10/01/2023

/ TRUE COPY /

/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR

TO

- 1 THE JUDICIAL MAGISTRATE,
VADIPATTI, MADURAI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SAMAYANALLUR,
MADURAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.KALIDOSS.G ---, Advocate (SR-444[I] dated 10/01/2023)

ORDER
IN
CRL OP(MD) No.562 of 2023
Date :10/01/2023

PKP/BUC/SAR-4/24.01.2023/3P/6C