



WEB COPY

CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.964 of 2023

Divakar

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Thirunagar Police Station,
Madurai District.
Crime No.215 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Ezhilarasu.C, Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.215 of 2022 on the file of the respondent police.

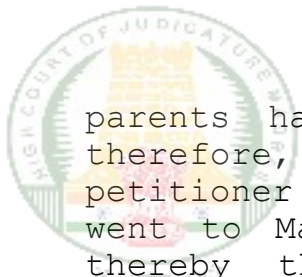
ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section Girl Missing @ Sections 5(j)(ii)(n) of POCSO Act, 2012, in Crime No.215 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the accused had kidnapped the minor victim girl and performed child marriage and committed penetrative sexual assault, due to which, she became pregnant. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is innocent. The petitioner and the victim are close relatives and there was love affair between them. The petitioner is

<https://www.mca21.com>



parents had arranged for marriage of the victim with , therefore, the victim called the petitioner and compelled the petitioner to marry her. The petitioner had married the victim and went to Madras and they lived together as husband and wife and thereby the victim had got pregnant. Without knowing the consequences and rigors of POCSO Act, they had sexual contact. Now, the victim is in the custody of her parents and they agreed to arrange for the marriage of the victim with the petitioner, after she attains majority. In the 164 Cr.P.C statement, the victim has not made any allegation as against the petitioner. Hence, prays to release the petitioner on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that there was love affair between the victim and the petitioner and the petitioner had kidnapped her and committed penetrative sexual assault, thereby, she became pregnant. Considering the gravity of the offence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the statement of the victim, recorded under Section 164 of Cr.P.C

6.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.VI, Madurai**, 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:

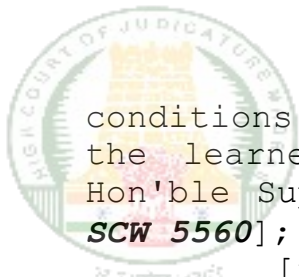
[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police everyday at 10:30 a.m., for a period of two weeks and thereafter, on every Saturday at 10:30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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 or 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]**; and;

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

sd/-
19/01/2023

/ TRUE COPY /

/02/2023

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

PNM

TO

TO BE SUBSTITUTED TO THE ORDER DATED 19/01/2023 ALREADY DESPATCHED

(*) 1. THE JUDICIAL MAGISTRATE NO.VI, MADURAI

2 THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.

3 -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

4 THE INSPECTOR OF POLICE
THIRUNAGAR POLICE STATION,
MADURAI DISTRICT.

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

**(*) CORRECTED AS PER ORDER OF THIS
COURT DATED 09/02/2023 IN CRL OP(MD)
NO.964 OF 2023**

**TIME IS EXTENDED FOR FURTHER TWO
WEEKS FOR EXECUTING SURETIES, FROM
THE DATE OF RECEIPT OF A COPY OF THE
AMENDED ORDER.**

+1. CC to M/S.EZHILARASU.C Advocate SR.No.2773(F)
ORDER IN
CRL OP(MD) No.964 of 2023
Date :19/01/2023

VA/SSS/SAR-3/01.02.2023/3P/6C

RK/SSS/SAR3(15.02.2023) 3P/7C

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