



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2023

PRESENT

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

CRL.O.P(MD)No.1217 of 2023

WEB COPY

Krishnamoorthy @ Krishnamoorthi

...Petitioner/Sole Accused

-vs-

The State represented by
The Inspector of Police,
AWPS Thoothukudi Police Station,
Thoothukudi District.
(in Cr.No.38 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 his arrest by the respondent Police with respect to Cr.No.38 of 2022.

For Petitioner
For Respondent

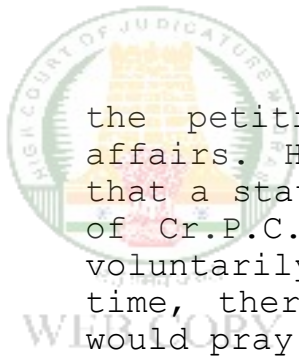
: Mr.M.Jerin Mathew
: Mr.A.Albert James
Government Advocate (Crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 5(1) and 6 of POCSO Act in Crime No.38 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 her minor daughter was working in a Two Wheeler show room and she had developed a relationship with one Krishnamoorthy. While so, his daughter had gone to work on 12.12.2022 and did not return to home and later it was found that her daughter had gone to the said Krishnamoorthy's house and they had sexual intercourse with each other for three days. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and he is only 21 years age. He would also submit that the petitioner and the victim girl are colleagues in a two wheeler show room and during such time, they developed love affair. He would also submit that since it was objected to by the parents of the victim, she has left her home and had come to the house of the petitioner and stayed with him and during such time, understanding the consequences and rigors of the POCSO Act,



the petitioner and the victim indulged in consensual affairs. He would further submit that the petitioner understands that a statement has been recorded from the victim under Section 164 of Cr.P.C., wherein, the victim herself has stated that she has voluntarily gone to the house of the petitioner and during such time, there was a consensual relationship between them. Hence, he would pray for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the petitioner and victim had developed love affair, while they are working in a two wheeler show room. Subsequently, the victim girl had gone to the house of the petitioner and during such time, they had consensual physical relationship. He would also submit that a statement under Section 164 Cr.P.C., has also been recorded from the victim girl. He would strongly oppose to grant 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. as well as 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 his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned District Sessions Judge (Mahila), Thoothukudi, 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., 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 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.

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It is also made clear that in the event of respondent seeking to take medical examination of the petitioner, he shall submit himself for medical examination.

sd/-

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

CMR

TO

- 1.The District Sessions Judge (Mahila), Thoothukudi.
- 2.The Inspector of Police,
AWPS Thoothukudi Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER

IN

CRL OP(MD) No.1217 of 2023

Date :10/02/2023

VA/BUC/SAR-3/22.02.2023/3P/4C