



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

PRESENT

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

CRL.O.P(MD)No.1312 of 2023

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B.Thangapandian

...Petitioner/Sole Accused

-vs-

State Represented by
The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District
(In Cr.No.31 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 in connection with Cr.No.31 of 2022 on the file of the respondent Police.

For Petitioner : Mr.A.Karthick Kumar

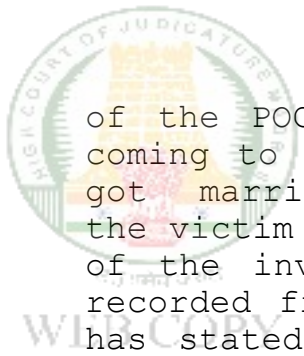
For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 9 of the Prohibition of Child Marriage Act, 2006 and Sections 5(j)(ii), 6 of the Prevention of Child From Sexual Offences Act, 2012 in Crime No.31 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case came to be registered on the basis of the complaint given by Dhanalakshmi, Extension Officer, Social Welfare Department, Chellampatti that the accused had married a minor girl aged 15 years and committed penetrative sexual assault due to which the minor victim girl became pregnant and delivered a child on 10.12.2022.

3.The learned counsel for the petitioner would submit that the petitioner is innocent person and a false complaint has been given. He would also submit that the petitioner and the victim girl are close relatives and they came from the lower state of the society and there was a love affair and since they came from the lower state of the society and they are unaware of the consequence and rigours



of the POCSO Act and the Child Marriage Act, the family is coming to know of the love affair, arranged the marriage and they got married and they are living as husband and wife due to which the victim girl became pregnant and delivered a child and major part of the investigation is over and the statement has already been recorded from the victim under Section 164 of Cr.P.C in which she has stated that there was consensual sexual relationship and the marriage had performed with the consent of the parents and the victim girl and new born child are in the custody of the mother of the victim girl and the family members have also agreed to arrange a proper marriage once she attains the age of marriage. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (crl.side) would submit that the petitioner had committed child marriage with the victim girl aged 16 years due to which she became pregnant and also delivered a child. He would further submit that investigation is pending. He prays for dismissal of this application.

5.Heard and perused the materials available on record including the statement recorded under Section 164 Cr.P.C. Taking into consideration the facts and circumstances of the case, 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 Special POCSO Court, Madurai, on condition that the petitioner shall execute 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 4 weeks and thereafter every Saturday 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



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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/-

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

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TO

1. SPECIAL POCSO COURT, MADURAI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
USILAMPATTI,
MADURAI DISTRICT.
3. ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.1312 of 2023

Date :02/02/2023

NA/CG/SAR-I/08.02.2023/3P/4C