



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/02/2023

PRESENT

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

CRL OP(MD) . No.2385 of 2023

Gopalakrishnan

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District.
Crime No.28 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Balan P, Advocate.

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

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

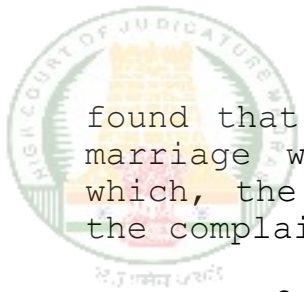
PRAYER :-

For Anticipatory Bail in Crime No.28 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 9 of Child Marriage Act and Sections 5(1),(j)(ii) and 6 of POCSO Act, 2012, in Crime No.28 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Dhanalakshmi, Extension Officer, Department of Social Welfare, Madurai District is that she received an information on 19.11.2022 from Rajaji Government Hospital stating that a minor had delivered a child on 18.11.2022. On enquiry, it was



found that the accused, who is related to her had performed marriage with her and had penetrative sexual assault, resulting which, the victim became pregnant and delivered a child. 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. Without knowing the consequences and rigors of POCSO Act, they had consensual physical relationship. Later, when the victim became pregnant, both the parents of the victim and the petitioner had performed marriage, without understanding the rigors of Child Marriage Act. Now the victim and her child are in the custody of victim's 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 though there was love affair between the victim and the petitioner and the petitioner is the close relative of the victim, he had committed penetrative sexual assault, thereby, the victim 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 **Sessions Judge, Principal Special Court for Trial of Cases under POCSO Act, 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 Judge 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 Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



[b] the petitioner shall report before the r... it 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 Judge/ 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 Judge/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/-

07/02/2023

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

PNM

TO

1 THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR TRIAL OF CASES UNDER POCSO ACT,
MADURAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
USILAMPATTI,
MADURAI DISTRICT.

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

+1. CC to M/S.BALAN P Advocate SR.No.1949(I)

ORDER

IN

CRL OP(MD) No.2385 of 2023

Date :07/02/2023