



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 09/02/2023
PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD). No.2566 of 2023

L.Vishnu Sankar ... Petitioner/Sole Accused
Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Sivakasi, Virudhunagar District.
(Crime No.327 of 2022 on the file of
the Sivakasi East Police Station) ... Respondent/Complainant

For Petitioner : M/s.Dhana Chandra Prakash D, 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.327 of 2022 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section "Girl Missing" @ into Sections 366 and 376(3) of I.P.C. and Section 3(A) r/w Section 4 of Protection of Child From Sexual Offences Act, 2012, in Crime No.327 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Kannan, is that his minor daughter was found missing from the house on 02.08.2022 and that he had given a complaint, based on which, a case in Crime No.327 of 2022 was registered for "Girl Missing", during the course of investigation, it came to light that the accused had kidnapped the victim girl and had committed penetrative sexual assault on the victim girl. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner and the victim girl's family are relatives. The victim's family members had proposed to give the victim in marriage to the petitioner. While so the victim's mother had taken loan from several persons and the victim's mother was kidnapped by some persons, who



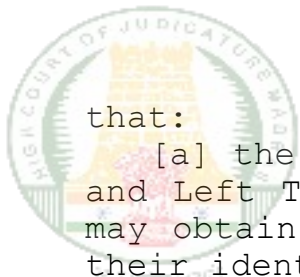
had given loan to her. Before that the victim's mother had the petitioner to take the victim to her grandmother's house. The petitioner had taken the victim girl to her grandmother's house and the grandmother also informed that they are make arrangements for giving the victim girl in marriage to him. While so without understanding the consequences and rigours of the POCSO Act, the petitioner and the victim girl had consensual sexual relationship and in the meanwhile, the father of the victim girl had given a complaint, as if, his daughter was missing, based on which, the case was initially registered in Crime No.327 of 2022 for "Girl Missing". Since it came to light that the petitioner and the victim girl had consensual sexual affair, the case was altered into under Sections 366 and 376(3) of I.P.C. and Section 3(A) r/w Section 4 of Protection of Child From Sexual Offences Act, 2012. He would further submit that the major part of the investigation is over and the petitioner understands that the victim girl during the course of investigation, has given a statement under Section 164 of Cr.P.C., wherein, she had stated that the relationship between the petitioner and the victim girl was consensual in nature. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed on him.

4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that the petitioner had kidnapped the victim from the lawful custody of her parents and had taken her to his sister's house, where, he had committed penetrative sexual assault on the victim girl. He would also submit that the statement has been recorded from the victim girl under Section 164 of Cr.P.C., wherein, she had stated that the relationship between them was consensual in nature. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5.Heard. Perused the materials available on record including the First Information Report as well as the statement of the victim girl recorded under Section 164 of Cr.P.C.

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

7.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 Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Virudhunagar District at Srivilliputtur, 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 concerned Court/Trial Court, 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 Special Court 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, daily 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 Special Court/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 Special Court/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/-

09/02/2023

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

SJI
TO

1 THE SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, 2012,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SIVAKASI, VIRUDHUNAGAR DISTRICT.

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

COPY TO
THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION, SIVAKASI.

+1. CC to M/S.DHANA CHANDRA PRAKASH D Advocate SR.No.2067(I)

ORDER

IN

CRL OP(MD) No.2566 of 2023

Date :09/02/2023