



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

Wednesday, the Eighth day of February Two Thousand and Twenty Three

PRESENT

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

CRL.O.P(MD)No.2538 of 2023

Rajadurai ...Petitioner/Sole Accused

-vs-

1 The State represented by
The Inspector of Police,
Karivalam Vandanallur,
Tenkasi District.
(Cr.No.26 of 2023)

...1st Respondent/Complainant

2 Kavitha ...2nd Respondent/Defacto 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.26 of 2023.

For Petitioner : Mr.T.Veldurai

For R1 : Mr.A.Albert james
Government Advocate (Crl.side)

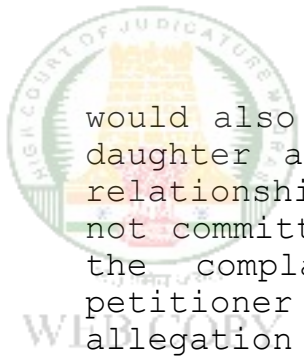
ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 366 IPC and Section 8 r/w 7 of POCSO Act, 2012 in Crime No.26 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Kavitha is that her daughter was born on 14.08.2006 and when her daughter was alone in the house, the accused had entered into her house and hugged and kissed her daughter. Later, he attempted to elope with her. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He

<https://www.mhc.tn.gov.in/judis>



would also submit that the petitioner and the defacto comp. 's daughter are known to each other and for a long time there was relationship between them and other than that, the petitioner has not committed any offence. He would further submit that even as per the complaint, the defacto complainant had stated that the petitioner had hugged and kissed her daughter and there is no other allegation of any penetrative sexual assault against her daughter. According to the learned counsel, major part of the investigation is over and statement has also been recorded from the victim girl under Section 164 Cr.P.C wherein she has not made any allegation of sexual assault on her. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the accused had kidnapped the daughter of the defacto complainant and attempted to misbehave with her when her daughter was alone in the house. Hence, he prays for dismissal of this application.

5.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statements of the victim girl, 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 Principal District Court cum POCSO Court, Tirunelveli, 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 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 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]**.



CRL.O.P(MD)



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[f] If the accused thereafter absconds, a fresh FII registered under Section 229A IPC.

sd/-
08/02/2023

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/ TRUE COPY /

/02/2023

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

CM

TO

1. THE PRINCIPAL DISTRICT COURT CUM POCSO COURT,
TIRUNELVELI.
2. THE INSPECTOR OF POLICE,
KARIVALAM VANDANALLUR POLICE STATION,
TENKASI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.VELDURAI T Advocate SR.No.6914 (F)

ORDER
IN
CRL OP (MD) No.2538 of 2023
Date :08/02/2023

NA/SBN/SAR-2/20.02.2023/3P/5C