



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

Thursday, the Sixteenth day of February Two Thousand and Twenty
Three

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PRESENT

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

CRL OP(MD) . No.3071 of 2023

T.Mathesh

... Petitioner/Accused

Vs

The Inspector of Police,
All Women Police Station,
Vilathikulam,
Tuticorin District.
(Crime No.2/2023)

... Respondent/Complainant

For Petitioner : Mr.C.M. Arumugam,

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.02 of 2023 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused who apprehends arrest at the hands of
the respondent police for the offences punishable under Section 9 of
Child Marriage Restraint Act, 1929 and Sections 5(1) and 6 of the
Protection of Children from Sexual Offences act, 2012 in Crime No.2
of 2023 on the file of the respondent police, seeks anticipatory
bail.

2.The case of the prosecution, as per the de-facto complainant,
the minor victim XXXX, is that she is studying +2 in Vilathikulam
Government School and that there used to be frequent quarrel between
her father and mother, since her father used to come in an
inebriated condition and due to the constant quarrel between her
parents, she used to go to her relative one Thangapandi Thatha's
house and during such time, she became friendly with the
minor victim's Thangapandi's son one Mathesh/petitioner and that on



23.01.2023, the petitioner had told her that if only  married and have sexual affair, nobody will split up them and by saying so, they had sexual relationship and later, she became pregnant. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner and the de-facto complainant/victim are close relatives and admittedly even as per the complaint, there was an affair between them and that they had consensual sexual relationship. He would further submit that the petitioner is aged 21 years and he and the victim without understanding the consequences and rigorous of POCSO Act, had consensual sexual affair, due to which, the victim became pregnant. He would further submit that the family members have now agreed for performing that marriage and that the child victim is also being taken care by the parents of the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that there was a love affair between the petitioner and the de-facto complainant and the petitioner got married the de-facto complainant and thereafter, having sexual relationship, due to which, she became pregnant. Hence, he would object for grant of anticipatory bail.

5.Heard. Perused the materials available on record including the First Information Report.

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 POCSO Cases, Tuticorin District, 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, daily at 10.30 a.m. until further orders.



[c] the petitioner shall not tamper with evidence or either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

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[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 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/-
16/02/2023

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/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

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

+1. CC to C.M. ARUMUGAM Advocate SR.No.2570 (I)

ORDER
IN
CRL OP(MD) No.3071 of 2023
Date :16/02/2023