



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

PRESENT

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

CRL.O.P(MD)No.3617 of 2023

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Sankar

...Petitioner/2nd Accused

-vs-

The State represented by
The Inspector of Police,
All Women Police Station,
Palani,
Dindigul District.
(Crime No.12 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 by the respondent Police with respect to Crime No.12 of 2022.

For Petitioner : Mr.D.Venkatesh

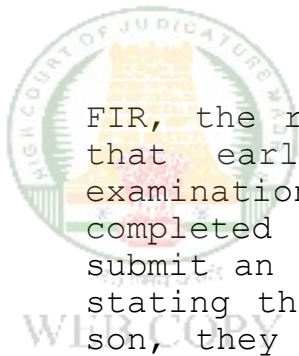
For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 506(i) IPC and Section 5(1)(j)(ii) r/w Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) in Crime No.12 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Valliyammal is that when her minor daughter refused to go to school, she questioned her and she told that one Vignesh, the first accused had committed penetrative sexual assault on her due to which she became pregnant. Hence, the cases.

3.The learned counsel for the petitioner would submit that the petitioner is arrayed as the second accused and he is the father of the first accused. He would further submit that it is averred in FIR that there was relationship between the defacto complainant's daughter and the petitioner's son 1 year ago and due to which the victim became pregnant and delivered a child, but the petitioner is not aware of the relationship of his son with the defacto complainant's daughter. He would further submit that even as per



FIR, the relationship was consensual in nature. He would state that earlier the petitioner's son was arrested and medical examination in respect of the petitioner's son has also been completed and subsequently, he was enlarged on bail. He would also submit an affidavit of undertaking has been filed before this Court stating that in event of proving the paternity of the petitioner's son, they would perform marriage between the defacto complainant's daughter and the petitioner's son. He would add that the petitioner is ready to co-operate with the respondent police for investigation. He would seek for anticipatory bail.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the father of the first accused and the first accused has made penetrative sexual assault on the defacto complainant's daughter due to which she became pregnant and delivered a child and he would oppose for grant of anticipatory bail to the petitioner.

5. Heard and perused the materials available on record.

6.Taking into consideration the facts and circumstances of the case and also taking into consideration of the affidavit of undertaking filed before this Court, 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 Fast Track Mahila Court, Dindigul, 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 everyday at 10.30 a.m for a period of two weeks and thereafter, as and when required.

[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 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.

The affidavit of undertaking shall form part of court records.
sd/-

01/03/2023

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/ TRUE COPY /

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

TO

1 THE JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PALANI,
DINDIGUL DISTRICT.

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

+1 CC to M/s.D.VENKATESH, Advocate (SR-3197[I] dated 02/03/2023)

ORDER

IN

CRL OP(MD) No.3617 of 2023

Date :01/03/2023

SS/RR/SAR II(08.03.2023) 3P 5C