



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.3764 of 2023

WEB COPY

Karuppasamy

...Petitioner/Sole accused

-vs-

State represented by
The Inspector of Police,
All Women Police Station (Aruppukottai),
Virudhunagar District.
(in Cr.No.06 of 2023)

...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 Cr.No. 06 of 2023.

For Petitioner : Mr.B.Micheal Sebastin

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

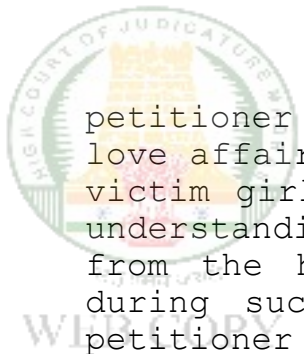
O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 5(1), 5(j)(ii) r/w, Section 6 of POCSO Act, 2012, Section 9 of Prohibition of Child Marriage Act, 2006 and Section 376(3) IPC in Crime No.06 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Ochammal, mother of the victim is that there was a close relationship between her daughter and her brother's son one Karuppasamy and she had reprimanded him not to talk to him. While so, on 12.10.2022, her brother's son, the accused had eloped with her daughter and married her without their consent and they also eloped from the village and while they were searching for her daughter of the defacto complainant, on 04.02.2023, her daughter had called the defacto complainant from Aruppukottai Government Hospital and when she had gone there, and it was informed that her daughter was pregnant by 2 months. Hence, the case.

3.The learned Counsel for the petitioner would submit that the

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



petitioner and the victim girl are close relatives and the a love affair between them and it was objected to by the mother of the victim girl and thereby the petitioner and the victim girl without understanding the rigors and consequences of POCSO Act had eloped from the home and they have lived together as husband and wife during such time, there was consensual relationship between the petitioner and the defacto complainant due to which the victim girl became pregnant. He would also submit that the family members coming to know the same have agreed to perform marriage between the petitioner and victim girl after both of them attain marriageable age. The petitioner's parents and the victim girl's parents have filed an undertaking affidavit before this Court that the marriage would be performed after the victim girl and the petitioner attain marriageable age. He would also submit that the petitioner does not deny paternity of the child and he is ready to furnish samples for taking DNA test as and when required by the respondent police. He would seek for anticipatory bail.

4.The learned Government Advocate (Crl.side) would submit that the petitioner had kidnapped the victim girl and thereby committed penetrative sexual assault due to which the victim girl became pregnant and she is now with her parents. He would oppose for grant of anticipatory bail to the petitioner.

5. Heard and perused the materials available on record including the statement recorded under Section 164 Cr.P.C

6.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statement of the victim girl, 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 Special Court for POCSO Act Cases, Srivilliputtur, Virudhunagar 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders. In the event of the



respondent seeking for DNA test, the petitioner shall necessary samples

[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.

sd/-

01/03/2023

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

CM

To

1.The Special Court for POCSO Act Cases,
Srivilliputtur, Virudhunagar District

2.The Inspector of Police,
All Women Police Station (Aruppukottai),
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.B.MICHEAL SEBASTIN, Advocate (SR-3131[I] dated
01/03/2023)

ORDER

IN

CRL OP(MD) No.3764 of 2023

Date :01/03/2023

RD/AR/SAR-IV (09/03/2023) 3P 5C