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CRL OP(MD).



23

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

Date : 06/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.4281 of 2023

Alagar

... Petitioner / Accused No.2

Vs

The State rep by
The Inspector of Police,
All Women Police Station,
Aundipatti,
Theni Disrict
Crime No.26/2022).

... Respondent / Complainant

For Petitioner : M/s.R.Shankar Ganesh, Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

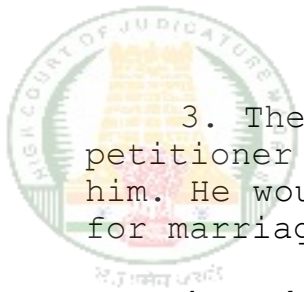
PRAYER :-

For Anticipatory Bail in Crime No.26 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 5(i),5(j)(ii)r/w.6(1) of POCSO Act,2012 and section 9 of Prohibition of Child Marriage Act in crime No.26 of 2022 on the file of the respondent police seeks anticipatory bail.

2.The case of the prosecution is that the son of the petitioner married the minor victim girl who is the daughter of the defacto complainant and had sexual intercourse with her, due to which she became pregnant and got delivered a female child, hence the case.



3. The learned counsel for the petitioner would submit the petitioner is innocent and a false case has been foisted against him. He would also submit that both the family members have arranged for marriage.

4. The learned Additional Public Prosecutor would submit that son of the petitioner married the minor victim girl who is the daughter of the defacto complainant and had sexual intercourse with her, due to which she became pregnant and got delivered a female child. However he would submit that the first accused after the victim girl attained majority married her and they are living happily.

5. Taking into consideration the facts and circumstances of the case and also taking note of the fact that now both the victim and the son of the defacto complainant are living happily, custodial interrogation of the petitioner is not required, hence 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 his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

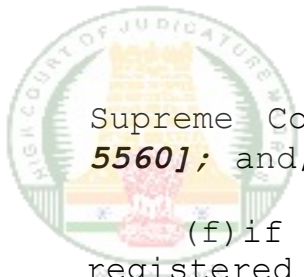
(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

(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 Magistrate/Trial Court himself as laid down by the Hon'ble



Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) 5560J]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

1.The Sessions Judge,
Mahalir Neethimandram,
Fast Tract Mahila Court,
Theni.

2.The Inspector of Police,
All Women Police Station,
Audipatti,
Theni District.

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

+1. C.C. to M/S.R.SHANKAR GANESH Advocate SR.No.3730(I) dated
08.03.2023

+1. C.C. to M/S.R.SHANKAR GANESH Advocate SR.No.3487(I) dated
06.03.2023

ORDER
IN
CRL OP(MD) No.4281 of 2023
Date :06/03/2023

ED/BUC/SAR-4 (13/03/2023) 3P 6C