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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/03/2023

PRESENT

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

CRL OP(MD) . No.6020 of 2023

Eswaran

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Oddanchatram,
Dindigul District.
(Crime No.5/2023).

... Respondent/Complainant

For Petitioner : Mr.C.Ezhilarasu,
Advocate.

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime no.5/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole Accused who apprehends arrest at the hands of the respondent police for the offences punishable under section 9 of Child Marriage Act, 2005 and sections 5(1)(j)(ii)r/w.6 of POCSO Act in Crime No. 5 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein and one kalapana fell in love and thereafter they got married and blessed with a female child. Based on the complaint given by the Child Welfare Officer the present case has been registered.

3. Heard both side and perused the materials available on record including the First Information Report.

4. It is a case of child marriage. Both the families agreed for marriage of the petitioner with the victim. Due to the wedlock

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



they were blessed with a child and living together happily. On the strength of the complaint given by the Child welfare officer, the present case has been registered. 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:

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5. 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 Additional 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 daily at 10.30 am., 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 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.

[g] the petitioner shall file an undertaking affidavit before the respondent police that he will marry the victim girl whenever she attains majority and register the marriage before the concerned Registrar Officer and produce the marriage Registration certificate before the concerned police and trial Court. Further if he violates the said undertaking the anticipatory bail granted to the petitioner shall stand cancelled and the respondent police is at liberty to secure the petitioner and proceed in accordance with law.

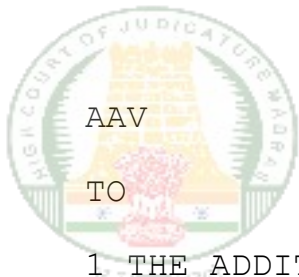
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/04/2023

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



1 THE ADDITIONAL MAHILA JUDGE, DINDIGUL.

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

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

ORDER

IN

CRL OP(MD) No.6020 of 2023

Date :30/03/2023

RS/MMS/SAR-2 (05.04.2023) 3P 4C