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CRL OP(MD).



23

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

Date : 06/04/2023

PRESENT

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

CRL OP(MD) . No.6408 of 2023

Nishanth ... Petitioner / Sole Accused

Vs

The State of Tamil Nadu,
The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.
(Crime No. 3 of 2023.)

... Respondent / Complainant

For Petitioner : Mr.C.K.M Appaji, Advocate.

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

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

PRAYER :-

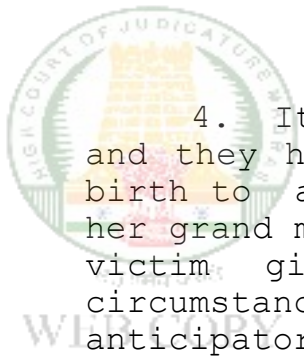
For Anticipatory Bail in Crime No. 3 of 2023 on the file of the respondent Police.

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 sections 5(j)(ii)5(1)and section 6 of POCSO Act,2012 in Crime No. 3 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein and the defacto complainant were I in love and the petitioner on the pretext of marriage had sexual intercourse with the victim due to which she became pregnant, hence the case.

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



4. It is seen that the petitioner fell in love with the victim girl and they had physical relationship, due to which the victim gave birth to a child and she is under the custody of the petitioner and her grand mother. The petitioner also assured that he will marry the victim girl. 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:

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 Special Court for Exclusive trial of cases under POCSO Act Cases, Nagercoil 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 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.

sd/-
06/04/2023

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/04/2023

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

AAV

To

1.The Judge,
Special Court for Exclusive Trial of cases under the POCSO Act,
Nagercoil.

2.The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.

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

+1 CC to M/s.C.K.M APPAJI, Advocate (SR-5544[I] dated 06/04/2023)

ORDER

IN
CRL OP(MD) No.6408 of 2023
Date :06/04/2023

ED/SSS/SAR-2 (12/04/2023) 3P 5C