



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/06/2023

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PRESENT

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

CRL OP(MD). No.9419 of 2023

Prakash ... Petitioner/Sole Accused
Vs

The State rep.by,
The Inspector of Police,
Thiruvegampathur Police Station,
Sivagangai District.
Crime No. 11/2023.

... Respondent/Complainant

For Petitioner : Mr.A.Arputharaj.A, 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. 11 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections Girl Missing @ 5(L), 6 of POCSO Act, in Crime No.11 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that her daughter was missing on 31.01.2023 and she lodged a complaint. On investigation it was revealed that the victim eloped with the petitioner and the petitioner had physical relationship with her. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the mother of the victim compelled her to marry her own brother, therefore, the victim eloped with the petitioner and had physical relationship with him. In fact the victim did not want to go back to her parents and therefore, she was put in Government home. Till



today she is in Government Home. The petitioner is ready to marry the victim when she attains majority. Hence, prays to release the petitioner on bail.

4.The learned Government Advocate (Crl.Side) submitted that the accused had physical relationship with the victim. In this case, investigation is not yet completed. Hence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.In this case, the minor girl aged about 16 years was eloped with the petitioner and had physical relationship. However, considering the facts and circumstances of this case and willingness of the petitioner to marry the victim after attaining her majority, this court is inclined to grant anticipatory bail to the petitioner with the following conditions:

7.Accordingly, this Criminal Original Petition is allowed and 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 Judge, POCSO Court, Sivagangai**, on condition that **the petitioner is directed to file an undertaking before the concerned Court that he will marry the victim whenever she attains majority** and 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 Judge 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 Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall marry the victim immediately after she attains majority and produce the registration of marriage certificate before the respondent police. Till the production of marriage certificate, the petitioner shall appear before the respondent police daily at 6 PM;

[c] the petitioner shall not tamper with the 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 Judge/ 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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court



in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and [f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
05/06/2023

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/06/2023

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

pnm

TO

1.THE JUDGE, POCSO COURT, SIVAGANGAI.

2.THE INSPECTOR OF POLICE,
THIRUVEGAMPATHUR POLICE STATION,
SIVAGANGAI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.9419 of 2023
Date :05/06/2023

RK/CG/SAR- (13/06/2023) 3P/4C