



CRL OP(MD). No.15862 of 2023

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

Date : 23/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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M.Vijay,

... Petitioner/ Accused No.1

Vs

**1. The Inspector of Police,
All Women Police Station, Nagarcovil,
Kanyakumari District.
in Crime No.18/2023.**

...Respondent/ Complainant

**2. Sakthi,
D/o.Murugan,
No.47,Muthalali Nagar,
V.M.Chathiram,
Tirunelveli.**

...2nd Respondent

**(R2 is Suo-Motu Impleaded as Per Order of the Court
District 07/09/2023 in CrI.OP(MD)15862 of 2023 by GIJ)**

For Petitioner : M/s.Jameelarasu B,Advocate.

**For Respondent : Mrs.M.Aasha,
Government Advocate (CrI.Side)**

For 2nd respondent : Mr.S.M.A. Jinnah, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.18/2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 5(1), 5(j)(ii), 6, 17 of POCSO Act r/w. Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 and Sections 120(b), 465, 468, 471, 498(A) r/w. 34 IPC and Section 4 of Dowry Prohibition Act in Crime No.18 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein had sexual intercourse with the victim, who is aged about 17 years after, three years she delivered a child. Based on the allegation that the victim was minor at the time of marriage and against her will and wish the marriage was arranged the present complaint has been registered against the petitioner and her family members.

3.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and hence, seeks anticipatory bail.

4. The learned counsel for the intervenor submitted that with a motive to demand money, the false complaint has been registered against the petitioner.

5.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that it is a matrimonial dispute between the husband and wife and the



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investigation of the case is pending.

6. On perusal of the FIR, it is noticed that it is a case of matrimonial dispute.

7. Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260, this Court is of the considered view that the alleged offence against the petitioner is not a case of heinous crime. Further, the petitioner is having permanent resident at Thirunelveli District and the origin of the crime is matrimonial dispute. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

8. In view of the above, I am inclined to grant anticipatory bail to the petitioner.

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



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copy made ready, before the Special Court for Exclusive trial of cases under POCSO Act, Kanyakumari, Nagerkovil, on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 shall appear before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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



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in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
23/11/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP
TO

- 1 THE SPECIAL JUDGE
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, KANYAKUMARI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-16817[I] dated 24/11/2023)

ORDER
IN
CRL OP(MD) No.15862 of 2023
Date :23/11/2023

PKP/JGB/SAR- /06.12.2023/ 5P/ 5C
Madurai Bench of Madras High Court is issuing certified
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