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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22082 of 2022

Nisha, ... Petitioner/SOLE Accused

Vs

THE STATE REP BY

The Inspector of Police,

Thisayanvillai Police Station,

Tirunelveli District

(Crime No.367 of 2022).

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu

Senior Counsel

Mr.K.Prabhu

For Respondent : Mr.A.Albert James,

Government Advocate (Crl.Side)

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

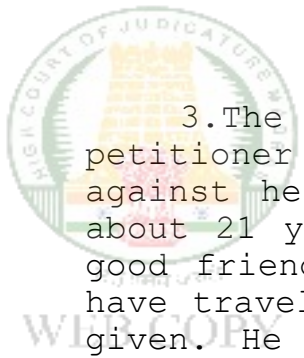
PRAYER :-

For Anticipatory Bail in Crime No.367 of 2022 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 Boy Missing @ 363 IPC and Sections 5(1) r/w 6 of Protection of Child from Sexual Offences Act, 2012, in Crime No.367 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Murugan @ Peter, is that his minor son (XXX) aged 16 years was studying in a Tutorial Centre at B.M.C Market, was found missing from 26.11.2022. Based on the complaint given by the de-facto complainant, the case came to be registered in Crime No.367 of 2022 for 'Boy Missing'. Later, during the course of investigation, it came to light that the petitioner, who was a tuition teacher of the missing boy had kidnaped him and had sexually abused him. Hence, the



3.The learned counsel for the petitioner would submit the petitioner is an innocent and a false complaint has been registered against her. He would further submit that the petitioner is aged about 21 years and the victim boy who is aged about 16 years, are good friends and that without understanding the consequences, they have travelled to Thiruchendur, whereas, a false complaint has been given. He would further submit that after coming to know of the registration of the case, they have returned back home and the boy has also been examined under Section 164(3) of Cr.P.C., where, she understands that the boy has not made any allegation of any sexual assault against her and thereby, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that the petitioner who was a tuition teacher, had kidnapped the minor boy and she had taken him to her friend's house, where, she had asked him to tie thali to her and thereafter, they have stayed there in the house for four days and hence, he would object for grant of anticipatory bail. However, he would fairly submit that the victim boy has submitted that there was no sexual assault during the relevant period.

5.Heard. Perused the materials available on record including the First Information Report and also the statement recorded under Section 164(3) of Cr.P.C. from the victim boy.

6.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:

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Court for Exclusive Trial of POCSO Act, Tirunelveli, 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 Special Judge/Trial Court 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 one weeks and thereafter, as and when required for interrogation.



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

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

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[e] On breach of any of the aforesaid conditions, the learned Special 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 Special 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].

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

sd/-
24/01/2023

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/02/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. The Judge, The Special Court for Exclusive Trial of POCSO Act, Tirunelveli.
2. The Inspector of Police,
Thisayanvillai Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S.PRABHU.K Advocate SR.No.1075

CRL OP(MD) No.22082 of 2022
Date :24/01/2023

KB/SAR IV(04.02.2023) 3P 5C