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CRL OP(MD). N



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

Date : 12.01.2023

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL OP(MD). No.22377 of 2022

Arms Nallathambi

... Petitioner/Sole Accused

Vs.

State Rep.by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
Crime No.33 of 2022.

... Respondent/Complainant

For Petitioner : Mr.T.A.Ebenezer, Advocate

For Respondent : Mr.M.Vaikkam Karunanithi.
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.33 of 2022 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 7, 8 and 9(f) of POCSO Act, 2012, in Crime No.33 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that on 08.08.2022, at about 10.00AM, when the accused was teaching lessons to the students, while dividing the students into groups, taking advantage of the situation, the accused put his hand on victim's breast and thigh.

3. On the side of the petitioner, it is stated that the petitioner is innocent and had not committed any such offence, as alleged by the prosecution. The petitioner insisted the victim to

<https://www.mhcoj.in/judis>



finish her home work, due to which, a false case has been filed against him. Investigation was already over and an absconding charge sheet was filed against the petitioner. The petitioner is ready to co-operate the trial. Only to get 100% result, the petitioner used to be strict with the students. Due to some personal enmity between the petitioner and the Headmaster of the School, this false case was foisted against the petitioner. Hence, prays to release him on anticipatory bail.

4. On the side of prosecution, it is stated that the petitioner wantonly misbehaved with the victim and 164 Cr.P.C. statement was recorded. The age of the victim is 12 years. Charge sheet was filed and the same was taken on file as Special S.C.No.112 of 2022, before the Special Court, Nagercoil. The nature of the offence is serious. Hence, prayed to dismiss the petition.

5. Considering the fact that the investigation was already over, charge sheet was filed and taken on file by the Special Court and considering the fact that though the earlier petition was dismissed by this Court, on 31.10.2022, the respondent has not chosen to arrest the accused-petitioner so far, this Court is inclined to grant anticipatory bail to the petitioner with certain condition.

6. Accordingly, this petition is allowed and the petitioner is ordered to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Special Court for Exclusive Trial of Cases under POCSO Act Cases, Kanyakumari at 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 learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall report before respondent police daily at 10.30 a.m., until further orders.

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

[d] the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

[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 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 FIR can be registered under Section 229-A IPC.

sd/-
12/01/2023

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/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

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

+1 CC to M/s.EBENEZER.T.A, Advocate (SR-698[I] dated 12/01/2023)

ORDER
IN
CRL OP(MD) No.22377 of 2022
Date :12/01/2023

PKP/VR/SAR-3/23.01.2023/3P/5C