



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P(MD)No.22999 of 2022

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...Petitioner/Accused Rank not known

-vs-

The State represented by
The Inspector of Police,
Tenkasi All Women Police Station,
Tenkasi District.
(in Cr.No.24 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.24 of 2022.

For Petitioner : Mr.R.L.Dhilipan Pandian, Advocate.

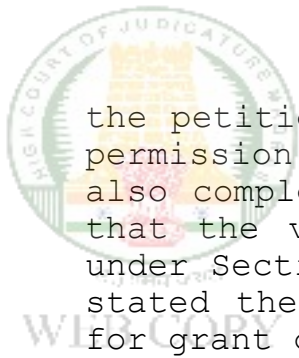
For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 5(1), 5(n), 5(j)(ii), 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act in Crime No.24 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, aged 17 years is that the accused is known to her and he is her cousin and that they were in love for past 3 years and on 24.01.2022, when she was alone the accused had compelled and had sexual intercourse with her and later had taken her to Chennai and they were living as husband and wife due to which she became pregnant and later she returned back to the native place and was admitted in Tenkasi Government Hospital and that she had delivered a child. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is the cousin of the defacto complainant and he is aged 21 years and they were having a love affair for the past 3 years and the victim is aged about 17 years and without understanding the consequences and triggers of POCSO Act, he has eloped with the victim girl and they have lived in Chennai as husband and wife and



the petitioner had married the victim girl only after getting permission from her family members and the respondent police has also completed major part of investigation. He would further submit that the victim was taken to the court for recording a statement under Section 164 Cr.P.C and the petitioner understands that she has stated the relationship with him is consensual in nature. He prays for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the victim girl has completed 17 years and her cousin had love affair and he had taken the victim girl along with him to Chennai where they have lived as husband and wife due to which the petitioner has delivered a child. Hence, the complaint.

5. Heard. Perused the materials available on record including the statement recorded from the victim girl under Section 164 Cr.P.C.

6.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statement of the victim girl, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli District, 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 everyday at 10.30 a.m.until further orders.

[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 FII registered under Section 229A IPC.

sd/-
12/01/2023

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

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
TENKASI ALL WOMEN POLICE STATION,
TENKASI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.22999 of 2022
Date :12/01/2023

CM

MK/MMS/SAR III(24.01.2023) 3P 4C