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CRL.O.P(MD)N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2023

PRESENT

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

CRL.O.P (MD) No.22976 of 2022

Adhiselvam

...Petitioners/Sole Accused

-vs-

The State represented by
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(in Cr.No.498 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.498 of 2022.

For Petitioner : Mr.Muniyandi, Advocate.

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 506(i) of IPC and Sections 7 and 8 of POCSO Act in Crime No.498 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, minor XXX, is that she is studying 10th standard and that the petitioner herein used to stake her and that on 21.11.2022, while she was coming back from school, the petitioner in an inebriated condition had taken her behind a push and had kissed her and he had also harassed her. Hence, case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that the petitioner and the victim girl are close relatives and that there was a love affair between them. Since, it was not proved to by the mother of the de-facto complainant, a false

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complaint has been given. He would further submit the petitioner understands that a statement has also been recorded from the victim under Section 164 Cr.P.C., wherein, she has admitted the love affair with the petitioner. He would also submit that the petitioner has also filed an undertaking affidavit that he will not disturb the de-facto complainant in future. Hence, he would seek for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the relative of the de-facto complainant and though there was a love affair between them, he has continuously harassed and tortured her. Hence, he would oppose for grant of anticipatory bail.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., the statement recorded from the victim girl under Section 164 Cr.P.C., and the affidavit of undertaking filed by the petitioner, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, 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 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.

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

CMR

TO

- 1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Madurai.
 - 2.The Inspector of Police,
Silaiman Police Station,
Madurai District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1. CC to M/S.MUNIYANDI S Advocate SR.No.2280(I)

ORDER

IN

CRL OP(MD) No.22976 of 2022

Date :10/02/2023

VA/SBN/SAR-2/23.02.2023/3P/5C