



CRL OP(MD). No.21104 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.21104 of 2023

Ajin.D

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
AWPS Colachel, Kanyakumari District.
(Crime No.4 of 2023).

... Respondent/Complainant

For Petitioner : M/s. Prithiviraj.P.R,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No. 4 of 2023 on the file of the respondent Police.



CRL OP(MD). No.21104 of 2023

ORDER : The Court made the following order :-

WEB COPY

The petitioner/sole accused, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 366(A) @ 366 and 376(3) of IPC and section 5(l),5(n),6,9(l), 9(n) and 10 of POCSO Act in Crime No.4 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein kidnapped the minor victim girl had committed penetrative sexual assault on her Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. Hence he seeks anticipatory to the petitioner.

4.The learned Government Advocate(Crl.Side) appearing for the respondent submitted that petitioner herein kidnapped the minor victim girl had committed penetrative sexual assault on her , hence she objected to grant anticipatory bail to the petitioner.



CRL OP(MD). No.21104 of 2023

WEB COPY

5. On perusal of the statement recorded under Section 164 of Cr.P.C., it is seen that on 10.02.2023 the victim herself went along with the accused. Further the petitioner also appeared before the respondent and medical examination was also over.

6. 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 Kamlendra 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 and taking into consideration the origine of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residents at Kanyakumari District. Hence 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.



CRL OP(MD). No.21104 of 2023

WEB COPY

7. In view of the above, this Court is 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 copy made ready, before the Special Court for Exclusive trial of cases under POCSO Act, Kanyakumar at Nagercoil 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 affix his photograph and Left Thumb Impression in the bond and the Magistrate may obtain a copy of his Aadhar card or Bank Pass Book to ensure his identity.

[b] the petitioner shall report before the trial Court on receipt of summons

[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



CRL OP(MD). No.21104 of 2023

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 FIR can be registered under Section 229A IPC.

sd/-
23/11/2023

/ TRUE COPY /

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

AAV

TO

1. THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
KANYAKUMAR AT NAGERCOIL

2. THE INSPECTOR OF POLICE,
AWPS COLACHEL, KANYAKUMARI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.P.R.PRITHIVIRAJ, Advocate (SR-16788[I] dated 23/11/2023)

ORDER
IN

CRL OP(MD) No.21104 of 2023
Date :23/11/2023

RK/SKN (30/11/2023) 5P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023