



Crl.O.P.No.27514 of 2024

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 11(2), 12 of POCSO Act in Crime No.16 of 2024, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant is that, she was married to the first accused and out of wedlock, she gave birth to two children. While so, on 25.07.2024, her husband brutally attacked her and driven her out of the matrimonial house and also refused to give her jewels and cash which belongs to her and also taken the documents in respect of the property purchased by her in the name of her husband and also sexually abused the children born to them. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and due to matrimonial dispute,



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false case has been given by the defacto complainant. He further submit that, earlier the defacto complainant had given a complaint against the petitioner, for which a case in crime No.529 of 2024 was registered and the petitioner was arrested and now in order to take away the children who are in the custody of the petitioner, a false complaint has been given. He further submit that, defacto complainant had earlier filed HCP.No.2222 of 2024 seeking custody of the children and the same was also dismissed and now in order to take the custody of the children, a false complaint was given. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police opposed for grant of anticipatory bail to the petitioner stating that the defacto complainant is the wife of the accused and there was a matrimonial dispute between them, due to which the accused had taken away the jewels and cash which belongs to the defacto complainant and also driven her out of the matrimonial house and also taken the children. Hence, he opposed for grant of anticipatory bail to the



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petitioner.

5. The learned counsel appearing for the defacto complainant/intervenor vehemently opposed for granting anticipatory bail to the petitioner stating that, the accused after taking all jewels, cash and the property documents which belong to the defacto complainant had driven her out of the matrimonial house and also taken away the children.

6. Heard the learned counsel for the petitioner, the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials available on record including the statement recorded from the children under Section 184 of BNSS.

7.Taking note of the facts and circumstances of the case, the submissions made by the learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in



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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 Court**, on condition that the petitioner shall execute a separate 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 6.30 p.m., for a period of two weeks and thereafter on every Saturday at 06.30.p.m., until further orders.

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



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[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 abscond, a fresh FIR can be registered under Section 269 B.N.S.

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