



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.2589 of 2025

Prathap

.. Petitioner

Vs.

1.The State Rep. by
The Inspector of Police,
Gudiyatham AWPS,
Vellore District.
(Cr.No.39 of 2024)

2.Mrs.Divya age-30,
W/o.Swaminathan, Supervisor,
District Child Helpline Unit,
District Child Protection Union – 1098
Collectorate Annexe Building,
1st Floor, A-Block,
Vellore – 632 009.

.. Respondents

****R-2 suo motu impleaded as per order dated 12.03.2025 in
Crl.O.P.No.2589 of 2025**

PRAYER: Criminal Original Petition filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the petitioners on bail in the
event of their arrest in Crime No.39 of 2024 pending investigation on the file
of the respondent police.



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Crl.O.P.No.2589 of 2



For Petitioner : Mr.R.Sunil Kumar
For R1 : Mr.R.Vinothraja
Government Advocate (Criminal Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 65(1) of BNS Act and Sections 5(1), 5(j), 5(ii), 5(n) and 6 of POCSO Act, seeks anticipatory bail.

2. Learned counsel appearing for the petitioner submits that the petitioner and the victim girl are cousins. The petitioner was aged about 34 years, and the victim girl was 17 years and 6 months. As per the family culture and tradition, marriage was performed with the concurrence of the elders. Now, when the victim girl had gone for a pregnancy test before the Government Hospital, Gudiyatham, it was found that the victim was a minor, and the Doctors have informed the child helpline and hence a case was registered. He further submits that the petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prays for grant of anticipatory bail to the petitioner.



3. It is further submitted by the learned counsel that in this case, the victim had now attained majority, and she had given birth to the female baby in the Gudiyatham Government Hospital, and she is now under the care and custody of her mother. The relationship of the petitioner and the victim is not disrupted by the family. He further submits that the petitioner is innocent and he has been falsely implicated in this case.

4. Per contra, the learned Government Advocate (Criminal Side) reiterated the prosecution case and submitted that in this case, the investigation has been completed and the charge sheet filed. He fairly submits that the victim girl supported the contention of the petitioner that she voluntarily married her maternal uncle, the petitioner herein, without any force, and as per family custom the marriage is held within the family, and age is not constrained according to her family custom.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials available on record.



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6. Considering the facts and circumstances of the case, submissions made by the learned counsels on either side, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. 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 Judge for POCSO Act, Vellore** 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, and on proof of payment of deposits, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled;



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[b] The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of identify proofs to ensure their identity;

[c] the petitioner shall appear before the Trial Court on all hearing date without fail.

[d] the petitioner shall not directly or indirectly cause any threat to the defacto complainant and witnesses and shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall make himself available for interrogation by a Police office as and when required;

[f] the petitioner to give an undertaking that if required for being identified by witnesses during investigation or for Police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[g] the petitioner shall not abscond either during investigation or trial;

[h] 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



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Crl.O.P.No.2589 of 2



by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala
[(2005)AIR SCW 5560];

[i] If the accused thereafter absconds, a fresh FIR can
be registered under Section 269 of BNS.

02.06.2025

cda

To

- 1.The Inspector of Police,
Gudiyatham AWPS,
Vellore District.
- 2.The Special Judge for POCSO Act,
Vellore.
- 3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.



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Crl.O.P.No.2589 of 2



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Crl.O.P.No.2589 of 2025

02.06.2025