



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Cr1.O.P.No.4259 of 2025

Kubendiran

... Petitioner

Vs.

State, Rep. by the Inspector of Police
All Women Police Station Vaniyambadi
Vaniyambadi, Thirupathur District
(Crime No.01 of 2025)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of BNSS, to enlarge the petitioner on bail in the event of arrest in Crime No.01 of 2025, on the file of the respondent Police.

For Petitioner : Mr.Vinodh Kumar

For Respondent : Mr.S.Santhosh
Government Advocate (Cr1.Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 5(1), 5(J)(ii) r/w.6 of POCSO Act and Section 9 of Child Marriage Act, in Crime No.01 of 2025, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that, the petitioner married the victim girl, who is aged about 16 years old and due to which, she became pregnant.

3.The learned counsel appearing for the petitioner submitted that the petitioner is a close relative of the victim girl, who is his sister's daughter; that



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he got married to the victim girl with the consent of the elders of the family, that she became pregnant; that when she was admitted to the hospital, the

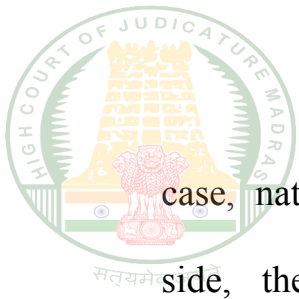
present complaint was filed and prayed for anticipatory bail for the petitioner.

The learned counsel further submitted that the victim girl did not intend to lodge any complaint against the petitioner and she had been voluntarily living with the petitioner.

4.Learned Government Advocate (Crl. Side) appearing for the respondent police, while opposing the grant of anticipatory bail to the petitioner, reiterated the prosecution case and produced the statement of the victim girl recorded under Section 183 of BNSS. He further submitted that final report has been filed.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials available on record including the statement of the victim girl recorded under Section 183 of BNSS.

6.The Petitioner is the uncle of the victim girl, aged about 16 years. Admittedly, he got married the victim girl with the consent of the elders of the family. Though his action cannot be justified, the question is whether custodial interrogation is required. The petitioner has not been arrested so far and final report has also been filed. Taking note of the facts and circumstances of the



case, nature of allegations, submissions made by the learned counsels on either side, the fact that the victim girl had given a statement that she voluntarily went with the petitioner, and since, custodial interrogation is not required for the purpose of investigation, 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 Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Vellore, Vellore 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 appear before the trial Court on all the hearing dates at 10.30 am., without fail.

[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 FIR can be registered under Section 269 of B.N.S.

20.03.2025

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To

1.The Sessions Judge,
Special Court for exclusive trial of cases
under POCSO Act,
Vellore, Vellore District

2.The Inspector of Police
All Women Police Station Vaniyambadi
Vaniyambadi, Thirupathur District

3.The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN, J.

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