

In the Court of Vacation Sessions Judge, Kanniyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.  
Vacation Sessions Judge/Principal Sessions Judge,  
Kanniyakumari at Nagercoil.

Thursday, the 16<sup>th</sup> day of May, 2024.

CrI.M.P. No. 64/2024

(CNR.No.TNKK0V-000131-2024)

Jagan, S/o. Alangamoni (A1)

.. Petitioner

/Vs./

Sub Inspector of Police,  
Nithiravilai Police Station,  
Crime No. 31/2024 of Nithiravilai Police Station,  
Rep. by Public Prosecutor, Nagercoil.

.. Respondent

This petition is filed by Advocate Thiru A.K.E. Appaji, u/s 438 Cr.P.C.,  
praying to grant anticipatory bail to the petitioner.

ORDER

Heard both sides. Perused the petition.

The petitioner/accused alleged to have been committed the offence u/s  
323 and 506(i) of IPC and Section 75 of Juvenile Justice Act.

The case of the prosecution is that the informant is the mother of A2.  
The husband of A2 is working at abroad and A2 have four children and they were  
living along with A2 in a separate house. A1 is the paramour of A2. On 24.01.2024  
at early morning A2 found that the children are missing and she came to know that

the children were in the custody of the informant/grandmother. So A2 approached the Hon'ble High Court in HCP(MD) No.133/2024 and the Hon'ble High Court directed the respectively police to produce the children before the Hon'ble High Court and on appearance of children before the High Court on 07.02.2024, the Hon'ble High Court enquired the children and orally instructed the respondent police to take action against A1 and A2 for harassing the children. Hence the charge.

The learned counsel for the petitioner submitted that the petitioner is innocent and as per the oral instruction and order of the Hon'ble High Court in HCP(MD) No. 133/2024, dated 07.02.2024 the respondent police registered this case against the petitioner and A2 u/s 323, 506(i) of IPC and Section 75 of JJ Act. A1 and A2 approached the Principal Sessions Court, Nagercoil for anticipatory bail in CrI.M.P.Nos. 1220/2024 and 1221/2024 and the same were dismissed on 23.02.2024. Now the change of circumstances in this case is that the A2 was arrested by the respondent police on 08.03.2024 and released on bail on 16.03.2024 and the children are under the care and concern of A2 and the informant also living under the same roof and the petitioner is ready to abide by any condition and prayed for anticipatory bail to the petitioner.

The learned Public Prosecutor opposed the application and submitted that the daughter of the defacto complainant had 3 male and one female children and her husband is in abroad, so she developed illicit intimacy with A2. So, the defacto complainant filed a petition before the All Women Police Station, Colachel. During enquiry, A2 told that she is going with A1 who is her paramour and four children are with her. The petitioner used to harass by beating them and then they were made to

kneel down on salt. When they consumed liquor, they used to make the children in nude condition. So, the defacto complainant filed a petition before the Hon'ble Madurai Bench of Madras High Court and the Lordship orally directed the Sub Inspector of Police who was present before the Hon'ble High Court on 07.02.2024 to register the case. Accordingly this case was registered. After the dismissal of the earlier applications, A2 was arrested and female child was recovered from her. This petitioner approached the Hon'ble High Court in CrI.OP(MD) No.3243/2024 and the same was dismissed by the Hon'ble High Court on 01.03.2024 and he has serious objection to grant anticipatory bail to the petitioner and the petition may be dismissed.

Considering that the A2 has been arrested subsequent to the dismissal of the anticipatory bail petition by the High court in so far as this petitioner, and A2 had also been granted bail by the learned Judicial Magistrate on 16.03.2024, this court is of the view that there is no impediment to grant bail if he is otherwise entitled to. Considering the nature of the allegations and the contentions that the children are in the custody of A2, besides that the defacto complainant, A2 and the children are now living under the same roof and that this petitioner claims that he does not have anything to do with the A2 or with their family members, which did not invite any serious objection from the side of prosecution, this court is inclined to grant anticipatory bail to the petitioner/accused with conditions.

In the result, in the event of arrest or on his appearing before the court concerned the petitioner is ordered to be enlarged on anticipatory bail on his executing a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the

satisfaction of Judicial Magistrate No.II, Kuzhithurai subject to the following conditions:-

1. The petitioner shall appear before the court concerned within 15 days from today without fail.
2. After release, the petitioner shall appear and sign before the respondent police daily at 10.00 A.M. until further orders.
3. The petitioner shall also make himself available before the respondent as and when required.
4. The petitioner shall not tamper with the witnesses or in any manner interfere with or put obstacle to the smooth progress of investigation.
5. The petitioner shall not leave the jurisdictional police limit without prior permission.

If there is any violation of condition, the Investigation Officer is with in his discretion to approach the court of the learned Judicial Magistrate for cancellation of bail even though bail granted by the Sessions Court as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji /Vs./ State of Kerala, (2005) AIR S.C.W. 5560.**

Pronounced by me in open court this the 16<sup>th</sup> day of May, 2024.

Vacation Sessions Judge.

To  
The Judicial Magistrate No.II, Kuzhithurai. (through e-mode)  
The Sub Inspector of Police, Nithiravilai Police Station. (through court cell e-mode)  
The counsel for the petitioner.