

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Nineteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.12362 of 2017

1 VALLIAMMAL
2 MUTHUKUMAR @ KUMAR ... PETITIONERS/PETITIONERS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVAICKUNDAM, THOOTHUKUDI,
CRIME NO.6 OF 2017 ... RESPONDENT / COMPLAINANT

For Petitioners : M/S.A.ANANDAN Advocate

For Respondent : MR.A.RAMAR, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

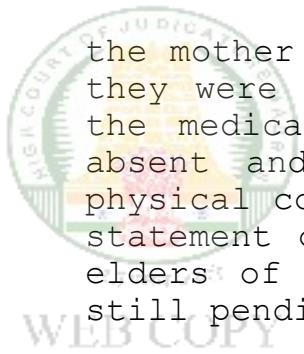
ORDER : The Court Made the following order :-

The petitioners / accused, who were arrested for the offences punishable under Sections 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and Section 5(1), 6 r/w 16 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), in Crime No.6 of 2017 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the marriage between the victim girl, aged about 15 years and the 2nd petitioner was performed by their parents and after marriage, both were living as husband and wife.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that 1st petitioner was arrested on 29.08.2017 and the 2nd petitioner was arrested on 30.08.2017. He also submitted that the petitioners and other accused are close relatives and he denied the alleged marriage performed between the 2nd petitioner and the victim.

4.The learned Additional Public Prosecutor submitted that initially 18 persons were arrayed as accused and during investigation, totally 4 accused were arrayed as accused and the petitioners are A3 & A4 respectively. He also submitted that A3 is



the mother of A4 and A1 & A2 are the parents of the victim girl and they were enlarged on bail by this Court. He also submitted that the medical report of the victim reveals the fact that hymen is absent and hence, it shows that the 2nd petitioner was having physical contact with the victim. He also submitted that as per the statement of the victim, the alleged marriage was performed by the elders of the victim and the 2nd petitioner and investigation is still pending.

5.The learned counsel for the petitioners submitted that he seeks permission to withdraw this Criminal Original petition in respect of the 2nd petitioner. He also made an endorsement to that effect.

6.Considering the facts and circumstances of the case and considering the nature of offence said to have been committed by the 1st petitioner and the considering the period of incarceration of the 1st petitioner in jail, this Court is inclined to grant bail to the petitioner. Accordingly, **the 1st petitioner is ordered to be released on bail** subject to the following conditions:

(i)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 Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi.

[ii]the first petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders.

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

[iv]the first petitioner shall not abscond either during investigation or trial.

[v]on breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the first petitioner in accordance with law as if the conditions have been imposed and the first 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)**.

7.This Criminal Original petition is dismissed as withdraw in respect of the 2nd petitioner is concerned.

sd/-
19/09/2017

/ TRUE COPY /

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



NBJ
TO

- 1 THE SEESIONS JUDGE, MAHALIR NEETHIMANDRAM,
(FAST TRACK MAHILA COURT), THOOTHUKUDI
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SRIVAIKUNDAM, THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE OFFICER INCHARGE, WOMEN JAIL, TIRUNELVELI.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

+1. CC to M/S.A.ANANDAN Advocate SR.No.30957

GJM/PM/PN/SAR-4-19.9.17-3P-7C

ORDER
IN
CRL OP(MD) No.12362 of 2017
Date :19/09/2017