

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

Thursday, the Third day of August Two Thousand Seventeen

PRESENT

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

CRL OP(MD) No.10202 of 2017

1 AATHILINGAM

2 ANTONY JEYASUNDARI

... PETITIONERS / ACCUSED No.1&2

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VILATHIKULAM ALL WOMEN POLICE STATION,
THOOTHUKUDI DISTRICT .

CRIME NO.4/2017

.... RESPONDENT / COMPLAINANT

For Petitioner : Mr.USILAI O.SIVAKUMAR 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 petitioner / A1 and A2, who were arrested and remanded to judicial custody on 30.06.2017 for the offences punishable under Sections 9 to 11 of Prohibition of Child Marriage Act, 2006 and Section 7 r/w. 8 of the POCSO Act in Crime No.4 of 2017 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused arranged marriage to the victim girl, who is aged about 15 years, with A1 .

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case.

4.The learned Additional Public Prosecutor appearing for the respondent would submit on instructions that there are totally six accused in this case and the petitioners herein are arrayed as A1 and A2 respectively and the A1 is the brother of A2 and A2 is the mother of Victim girl. He would further state that A1 married the victim girl aged about 15 years and all the accused are made arrangement for marriage of the first petitioner with the victim girl and the investigation is still pending.

5.Considering the facts and circumstances of the case and also considering the fact that the petitioners are brother and sister respectively and the victim girl is the daughter of A2 and maternal daughter of A1 and the POCSO Act is not applicable to the facts of the present case, this Court is inclined to grant bail to the 2nd petitioner. Accordingly, **the 2nd petitioner is ordered to be released on bail** subject to the following conditions:

(i)the 2nd 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 learned Special Judge, Mahila Court, Tuticorin.

(ii) the 2nd petitioner shall appear before the respondent Police daily 10.30 am until further orders;

(iii)the 2nd petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the 2nd petitioner shall not abscond either during investigation or trial;

(v)on breach of any of the aforesaid conditions, the 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 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]**.

6. In view of the endorsement made by the learned counsel appearing for the petitioners, the Criminal Original Petition is dismissed as not pressed as against A1.

sd/-

03/08/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE SPECIAL JUDGE, MAHILA COURT, TUTICORIN
- 2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI
- 3 THE INSPECTOR OF POLICE
VILATHIKULAM ALL WOMEN POLICE STATION,
THOOTHUKUDI DISTRICT
- 4 THE OFFICE INCHARGER,
SUB JAIL, KOKKARAKULAM, TIRUNELVELI
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI I

+1. CC to Mr.USILAI O.SIVAKUMAR Advocate SR.No.28007
JAM/04.08.17/CM-MSA/SAR 1 / 2P-7C