



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

Tuesday, the Twentieth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.19349 of 2018

A.GNANASEKAR

... PETITIONER/ACCUSED-2

Vs

STATE REP BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PUDUKKOTTAI,
PUDUKKOTTAI DISTRICT.
CRIME NO.6/2018

... RESPONDENT/COMPLAINANT

For Petitioner : MR.V.KATHIRVEELU, Senior counsel for
MR.P.KANDASAMY, Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

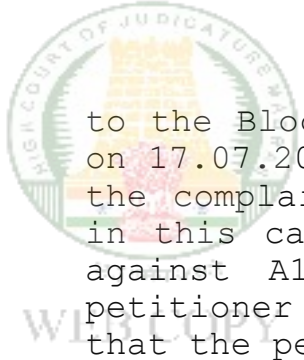
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 9(f), 9(m), 10, 17 of Protection of Children from Sexual Offences Act, 2012, and Section 506(1) of IPC., in Crime No.6 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that on 16.07.2018, a village people had given a complaint against a School teacher viz., Anbarasan / A1, to the petitioner and despite aware of the act of accused and receipt of complaint, the petitioner has not taken any action, as a Headmaster of a School. The defacto complainant's daughter, aged about 10 years and other students of the School were being sexually harassed by the Teacher / A1 for the past six months.

3. Mr.V.Kathirvelu, the learned Senior Counsel appearing for the petitioner would submit that when the petitioner was working as Headmaster in the Panchayat Union Primary School, N.Pudupatty, Gandarvakottai Union, Pudukkottai District, had received complaint given by the defacto complainant, against a School teacher Anabarasan / A1, on 16.07.2018 and immediately he forwarded the same



to the Block Educational Officer and subsequently, A1 was suspended on 17.07.2018. The petitioner had taken immediate action as soon as the complaint was received by him. The petitioner being roped in, in this case, for the reason that though the complaints were made against A1, to the petitioner orally prior to 16.07.2018, the petitioner had not taken any action. Hence, it has to be construed that the petitioner was in complicity with the other accused.

4. Adding further, the learned Senior Counsel would contend that the defacto complainant's husband viz., Sakthivel, belongs to a political party and he is a District General Secretary, who used to collect money for conducting political meetings and for other activities, which was not encouraged by the petitioner. The petitioner, who has been working for more than 13 years with unblemished records of service, due to the instigation of said Sakthivel, false allegations have been made against the petitioner and he has been arrayed as an accused in the above case. The petitioner is now transferred to the Panchayat Union Elementary School, Marapatti, Kandarakottai Union.

5. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondents, on instructions, would submit that the defacto complainant's daughter, while studying in the primary school, the first accused was a teacher, taking classes for standard 1 to 3 and the petitioner was taking classes for standard 4 and 5. The first accused had abused several female children of tender age, more particularly during March 21 and 22 of 2017, on the days when the petitioner was on leave and the accused / A2 had taken classes for Standard 4 and 5, on which date, he said to have abused several children. The children, due to ignorance and fear had not complained about the same. One of the child was unable to bear with the pain and in tears. The parents of the child came to know about it and further enquired with the other school children and then only, the act of the first accused came to be known. When the same was made as a complaint to this petitioner, he failed to take immediate action, on the other hand, requested the parents to wait till the annual examination, since sudden transfer of the accused/A2 would cause difficulties to the student in their annual examination and the school might be closed. For inaction on the part of the petitioner, the petitioner has been roped in, for abetment.

6. On perusal of the records it is found that the case came to be registered on 31.07.2018, the defacto complainant / victim and others were examined, statements under Section 164 of Cr.P.C., were recorded, thereafter, further statements were also recorded clarifying certain aspects found in the 164 Cr.P.C., statements, prior to registration of the case, the Education Department had



conducted an enquiry with the children and their parents and a report has been submitted to the Child Welfare Officer, who in turn, had also conducted enquiry on 24 & 25 of July, 2018 and also one Akilandeswari, the successor to the petitioner. On 24.07.2018, a child awareness sessions was held in the school and thereafter, the children were examined. Thus, even before registration of the complaint, an enquiry has been conducted by the Education Department, Child Welfare Officer and it is found that on 16.07.2018. a complaint has been received by this petitioner. Thereafter, he had immediately forwarded the same along with his letter to the Regional Educational Officer, on 16.07.2018. Thus, the petitioner immediately acted upon on the complaint of the villagers against the other accused. Further, it is is found that no specific overt act has been attributed against the petitioner. The investigation in this case has been completed and charge sheet has been filed, which was taken on file as Spl.C.C.No.25 of 2018, by the Mahila Court, Pudukottai. No custodial interrogation of the petitioner is warranted. Hence, 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, before the Mahila Court, Pudukkottai, 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 learned Magistrate concerned and on further condition that;

[a] if the petitioner failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioner shall appear before the trial Court on all hearing days, without fail, until further orders.

[c] the petitioner shall not tamper with evidence or witness either during trial.

[d] the petitioner shall not abscond during 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
20/11/2018

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



1. THE JUDGE, MAHILA COURT, PUDUKKOTTAI.

2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PUDUKKOTTAI, PUDUKKOTAI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.P.KANDASAMY Advocate SR.No.21793

ORDER

IN

CRL OP(MD) No.19349 of 2018

Date :20/11/2018

mpk

PK/RR/SAR-1/22.11.2018 : 4P/5C