

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 30/07/2019

PRESENT

**The Hon`ble Mr.Justice P.RAJAMANICKAM**

CRL OP(MD) . No.10356 of 2019

1.Kathiravan  
2.Mahalakshmi  
3.Jayalakshmi  
4.Muthupandi

... Petitioners/Accused Nos.1 to 4

Vs

State represented by  
The Inspector of Police,  
All Women Police Station,  
Aruppukkottai,  
Virudhunagar District.  
Crime No. 15 of 2019.

... Respondent/Complainant

For Petitioners: M/s.M.Prabu,  
Advocate.

For Respondent : Mr.V.Neelakandan,  
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 15 of 2019 on the file of the Respondent Police.

**ORDER :** The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 323, 420, 406 & 506 (i) of IPC and Sections 9 & 10 of Child Marriage Restraint Act and Sections 5 (1), 6, 17 of POCSO Act and Section 4 of Dowry Prohibition Act, in Crime No.15 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the petitioners are innocent persons and they have been falsely implicated in this case. Even as per the FIR, the

defacto complainant's mother and the third petitioner are friends and both are working at Velammal Hospital, Madurai. The third petitioner and A5 have arranged the marriage between the first accused and the defacto complainant/victim minor girl on 22.01.2018, by giving a false statement that the first petitioner is working at Tamil Nadu Police Department. Thereafter, the petitioners demanded more dowry from the defacto complainant and continuously harassed her and criminally intimidated her. After marrying the defacto complainant, the first petitioner had sexual intercourse with the defacto complainant by force and further, he is also having illegal intimacy with his aunt. He further submitted that at the time of marriage, both are minor therefore, the complaint itself not maintainable under the Dowry Prohibition Act. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.Per contra, the Additional Public Prosecutor appearing for the respondent has submitted that the petitioners married the minor victim girl with A1 by giving false statement that he is working at TamilNadu Police Department. Thereafter, they demanded more dowry from the defacto complainant and continuously harassed her and criminally intimidated her. A1 is in possession of 15 sovereign of gold jewels of the defacto complainant. He further submitted that the he had a sexual intercourse with the defacto complainant by force and also having an illegal intimacy with his aunt. Hence, he opposed this petition.

5.The main allegation is against first petitioner/A1 and after marrying the defacto complainant/victim girl, he had sexual intercourse by force and also he is having illegal intimacy with his aunt. Taking into consideration of the aforesaid facts, this Court is not inclined to grant anticipatory bail to the first petitioner. Insofar as the other petitioners are concerned, they are in-laws of the defacto complainant and main allegation against them is that they married the victim minor girl with A1, therefore, this Court is inclined to grant anticipatory bail to the petitioners 2 to 4 with certain conditions.

6. Accordingly, the petitioners 2 to 4 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Mahila Fast Track Court, Srivilliputhur, on condition that the petitioners 2 to 4 shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners 2 to 4 fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) considering the submission made by the learned counsel for the petitioners that the second petitioner is native of Elumalai, she is directed to appear before the respondent police as and when required before the respondent police for interrogation and the petitioners 3 & 4 shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners 2 to 4 shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners 2 to 4 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. Insofar as the first petitioner/A1 is concerned, this petition is dismissed.

sd/-

30/07/2019

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

TO

1. THE JUDGE, MAHILA FAST TRACK COURT,  
SRIVILLIPUTHUR.
2. THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.PRABU Advocate SR.No.12528

ORDER

IN

CRL OP(MD) No.10356 of 2019

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