

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)
Monday, the Second day of March Two Thousand Twenty
PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL ORIGINAL PETITION No.4418 of 2020

1 SHANMUGAM
2 SITHAYI

[PETITIONERS / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
POOLAMPATTI POLICE STATION,
SALEM DISTRICT.
CRIME NO.24 OF 2020.

[RESPONDENT]

For Petitioner : M/S.R.JAYAPRAKASH Advocate

For Respondent : MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 9 and 10 Prohibition of Child Marriage Act, 2006 read with Section 5(i) (ii) & 6 of the Protection of Children from Sexual Offences and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 in Crime No.24 of 2020, seek anticipatory bail.

2. Heard both sides.

3. The case of the prosecution is that the mother of the defacto complainant had forced her daughter for child marriage and to marry her to the petitioner's son. The petitioners had tortured the defacto complainant. Hence, the complaint.

4. The learned counsel for the petitioners would submit that even as per the statement recorded from the victim girl under Section 164 of Cr.P.C., it is seen that the victim girl was subjected to abuse by her mother and thereafter, the mother of the victim had got her married to the son of the petitioners by falsely stating that she is aged 20 years. Further, the victim has admitted that after her marriage, the petitioners were taking good care of her. No allegations have been made by the victim against the petitioners and hence, prayed for grant of anticipatory bail.

5. The learned Additional Public Prosecutor would submit that the victim girl was married to the son of the petitioners and the age of the victim at the time of marriage was about 15 years.

6. I have gone through the statement recorded from the victim under Section 164 of Cr.P.C. As per the victim girl, she was subjected to abuse by her mother and later by giving her age as 20 years, she was given in marriage to the son of the petitioners. Admittedly, the petitioners have taken good care of the victim girl and no allegations have been made against the petitioners, who are the in-laws of the defacto complainant.

7. Taking into consideration the nature of allegations against the petitioners, and the submission made by the learned counsel for the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with stringent conditions.

8. Accordingly, the petitioners 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 Judicial Magistrate, Fast Track Mahila Court, Salem on condition that the petitioners 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each to the credit of Crime No.24 of 2020 before the learned Judicial Magistrate, Fast Track Mahila Court, Salem, within a period of two weeks from the date of receipt of a copy of this order.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
02/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK MAHILA COURT, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
POOLAMPATTI POLICE STATION,
SALEM DISTRICT.

+1CC to M/S.R.JAYAPRAKASH Advocate on payment of necessary charges SR NO.18447

CRL OP.4418/2020

Date :02/03/2020

MK:10/03/2020