

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice T.RAJA

CRIMINAL ORIGINAL PETITION No.5962 of 2020

1 PALANISAMY
2 DEVI KALAIVANI

[PETITIONERS / ACCUSED]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMAN POLICE STATION,
AVINASHI, TIRUPPUR.
CRIME NO.9 OF 2019

[RESPONDENT]

For Petitioner : M/S.D.VEERASEKARAN Advocate

For Respondent : MR. S.KARTHIKEYAN, 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 Sections 366 IPC, 5(i)(ii), 5(1), 6 of Protection of Child from Sexual Offences Act, 2012 and u/s.9 of Prohibition of Child Marriage Act, 2006, in Crime No.9 of 2019, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioners are the husband and wife. Since there was a civil dispute between the petitioners and the husband of the victim girl regarding the ancestral property, the petitioners have filed a false complaint against the victim girl's husband stating that he had married a minor girl when she was only a 15 years old. The defacto complainant is the aunt of the victim girl's husband, who is the 2nd petitioner herein. The defacto complainant was impleaded in this case as an accused as she was also present on the occasion of the marriage when it was performed. Hence, the complaint.

3.Learned counsel appearing for the petitioners submitted that the petitioners were not aware of the age of the minor girl when their marriage was performed. Thereafter, they came to know that the victim was a minor girl, hence, the 2nd petitioner lodged a complaint against her sister's son for committing the offence of child marriage. Hence, he prays for grant of anticipatory bail to the petitioners.

4.Learned Additional Public Prosecutor appearing for the respondent submitted that due to civil dispute between the petitioners and the husband of the victim girl regarding the ancestral property, the petitioners have given a criminal colour and lodged a complaint. The victim girl has attained majority now and they are living happily and they are also having one year old child now.

5.Considering the above circumstances that the victim girl has already been attained majority and also having a one year old child, this Court deems it fit to grant anticipatory bail to the petitioners on certain conditions. 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 on which the order copy made ready, before the Fast Track Mahila Court, Tiruppur, on condition that the petitioners shall execute a separate 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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

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

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

[e] 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]**.

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

-sd/-
19/03/2020

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 FAST TRACK MAHILA COURT,
TIRUPPUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALL WOMAN POLICE STATION,
AVINASHI, TIRUPPUR.

+1CC to M/S.D.VEERASEKARAN Advocate on payment of necessary charges SR NO.5389

CRL OP.5962/2020

Date :19/03/2020

MK:17/04/2020