

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.8625 of 2020

1. Murugan, M/38,
S/o.Krishnan,

2. Mugesh, M/20,
S/o.Murugan,

Both are residing at 18/6, Thottiyapatti,
Thuthikulam, Kalappanaickenpatty,
Sendamangalam Taluk,
Namakkal District.

... Petitioners

Vs.

State, rep. by
The Inspector of Police,
Sendamangalam Police Station,
Namakkal District.
(Crime.No.321 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their arrest in
Crime No.321 of 2020 on the file of the Inspector of Police,
Sendamangalam Police Station, Namakkal District.

For Petitioners : Mr.B.Vasudevan
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Section 366 IPC and Section 11 r/w 12 of POCSO Act, in Crime No.321 of 2020 seek anticipatory bail.

2. The case of the prosecution is that the second petitioner compelled the victim girl, who is aged about 16 years, to marry him and it is alleged that on 26.04.2020, the second petitioner threatened the victim girl and took her to his house by compulsion. In the house of the second petitioner, his father viz., first petitioner herein compelled the victim girl to marry his son viz., the second petitioner herein and also threatened her. Therefore, the victim girl tried to commit suicide by hanging herself and thereafter she was rescued by her family members. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A1 and A2, they are father and son. He further submitted that there was a love affair between the second petitioner and the victim girl. Hence the first petitioner advised the victim girl and his son. But the victim girl tried to commit suicide by hanging herself and subsequently, she was rescued by her family members. He further submitted that there is absolutely no allegations under the POCSO Act and no sexual harassment by the petitioners. Therefore, he prays to grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the victim girl, who aged about 16 years, was compelled by the second petitioner to marry him. In this regard, on 26.04.2020, she was taken by the second petitioner to his house by compulsion and threat. In his house, the father of the second petitioner viz., the first petitioner herein compelled the victim girl to marry the second petitioner. Hence she tried to commit suicide by hanging herself and thereafter she was rescued by

her family members. Hence he vehemently opposed to grant of anticipatory bail to the petitioners.

5. It is seen that totally there are two accused persons involved in this case and the petitioners are arrayed as A1 and A2 who are none other than the father and son. On 26.04.2020, the second petitioner had compelled the victim girl to marry him. After, she tried to commit suicide by hanging herself, thereafter, she was rescued by her family members.

6. Considering the above fact and circumstances of the case, this Court is not inclined to grant anticipatory bail to the second petitioner. Accordingly, this Criminal Original Petition is dismissed insofar the second petitioner is concerned. However, this Court is inclined to grant anticipatory bail to the first petitioner with certain conditions.

7. Accordingly, the first petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days

from the date on which the order copy made ready, before the Additional Mahila Court, Namakkal, on condition that the first 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 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 first petitioner 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 first petitioner shall report before the respondent police daily at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

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

[d] the first petitioner 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 first petitioner in accordance with law as if the conditions have been

imposed and the first 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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Index: Yes/No
Internet: Yes/No
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To

1. The Additional Mahila Court,
Namakkal.

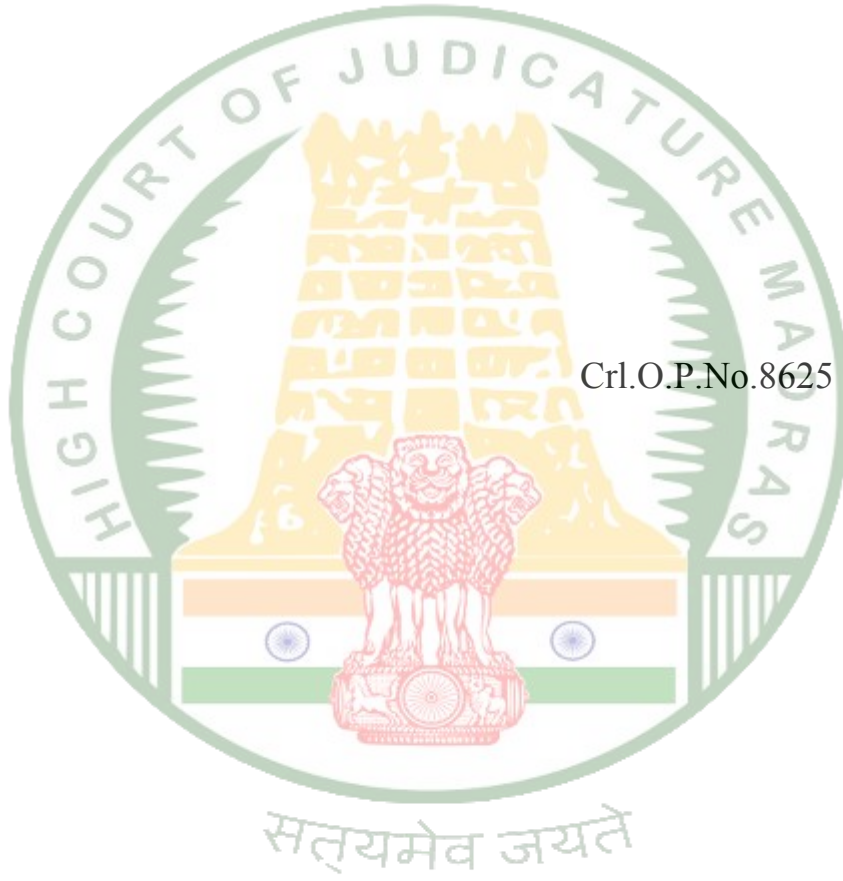
2. The Inspector of Police,
Sendamangalam Police Station,
Namakkal District.

3. The Public Prosecutor,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J

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