

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2020

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

Crl.O.P No.9108 of 2020

1. Kaliyammal
2. Devendiran

... Petitioners

Vs.

State by
The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.
(Crime No.364 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of arrest in Crime No.364 of 2020 on the file of the respondent Police.

For Petitioner : M/s.M.P.Saravanan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section Girl Missing @ 363, 366 (A), 366 of IPC and 5(1) r/w 6 of POCSO Act 2012 in Crime No.364 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant Govindaraj made a complaint stating that his younger daughter namely, Santhiya aged about 17 years was missing from 22.05.2020. Thereafter, they came to understand that the first accused kidnapped the victim girl aged about 17 years to forcible marry her. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that there are totally four accused, in which the petitioners are arrayed as A3 and A4, the mother and the brother of the first accused. The first accused fell in love with the minor girl aged about 17 years and they eloped and also got married. Thereafter, on the complaint lodged by the defacto complainant, the first accused was arrested and remanded to judicial custody and the victim girl was also secured and handed over to the parents. Insofar as, the petitioners are concerned, they are nothing to do with the crime as alleged by the prosecution.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that on the complaint lodged by the father of the victim girl, initially, the case was registered as girl missing case. Thereafter, altered to the offence under Sections 363, 366 (A), 366 of IPC and 5(1) r/w 6 of POCSO Act 2012. There are totally four accused, in which the first accused kidnapped the victim minor girl aged about 17 years under the guise of love affairs and also forcibly married her. Subsequently, the first accused was arrested and remanded to judicial custody, and the victim girl was secured and handed over to her parents. Insofar as, the petitioners are concerned, they also helped the first accused to kidnap the victim girl. He would further submit that the Statement under Section 164 Cr.P.C is yet to be recorded from the victim girl. Hence, he opposed to grant of anticipatory bail to the petitioners.

5. There are totally four accused, in which the petitioners are arrayed as A3 and A4. Initially, the defacto complainant lodged the complaint for missing his minor daughter aged about 17 years. Thereafter, they came to understand that the first accused kidnapped the victim girl and got married. Admittedly, there is a love affair between the first accused and the victim girl and the victim girl was secured and handed over to her parents. The first accused was arrested and remanded to judicial custody. Insofar as, the petitioners are concerned, they are mother and brother of the first accused.

6. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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 learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, 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.

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[b] 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Inspector of Police,
Pochampalli Police Station, Krishnagiri District.
2. The Public Prosecutor,
High Court of Madras, Madras.

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