

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 9526 of 2020

1.Maheshwari
2.Pathamanaban
3.Suresh

... Petitioners

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Harur, Dharmapuri District.
(Crime No.5 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to grant anticipatory bail to them in the event of arrest by the respondent police in Crime No. 5 of 2020 pending investigation on the file of Respondent police.

For Petitioners : Mr.K.K.N.Ganeshan

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

O R D E R

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 5(1)(n) r/w 6, 5(a)(ii), 5(a)(iii), 9(a)(iii), 10 of POSCO Act in Crime No. 5 of 2020 seeks anticipatory bail.

2. The case of the prosecution is that the first accused fell in love with the victim girl aged about 16 years. On the pretext of marriage, he had sexual intercourse with the defacto-complainant, thereafter she got pregnant. During her pregnancy, the first accused and **fourth*** accused namely first petitioner herein had taken the victim girl to the hospital and aborted. Hence the complaint.

3. The learned counsel for the petitioner would submit that there are totally two accused in which the petitioner is arrayed as A2 to A4. Insofar as the first accused is concerned, he was arrested and remanded to Judicial Custody. He fell in love with the victim girl, as such she got pregnant and thereafter her pregnancy was aborted. Insofar as, the petitioner is concerned, he is nothing do with the allegation as alleged by the prosecution. Therefore, sought for Anticipatory Bail.

4. The learned Additional Public Prosecutor produced statement recorded under Section 164 Cr.P.C., of the victim girl and submitted that the first accused fell in love with the victim girl aged about 16 years. Thereafter, the first accused had sexual intercourse and as such she got pregnant. Subsequently, on the complaint of the first and second accused, she was taken to the hospital and aborted. Insofar as the other petitioners are concerned, they have also helped the first accused.

5. It is seen that there are totally four accused in which the petitioners are arrayed as A2 to A4. A2 is the mother, A3 is the brother, A4 is **uncle*** of A1. The first accused was arrested and remanded to Judicial Custody. The first petitioner is the mother of first accused, who was also helped the first accused to abort the pregnancy of the victim girl. In fact, the first and second accused have taken the victim girl to the hospital and aborted. Insofar as the second and third petitioners are concerned, they are relatives of the first accused.

5. Considering the above facts and circumstances of the case, this Court is not inclined to grant Anticipatory Bail to the first petitioner. As such, this petition against the first petitioner is dismissed. Insofar as the second and third petitioners, this Court is inclined to grant anticipatory bail with certain conditions.

6. Accordingly, the second and third 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 Judicial Magistrate, Harur, **Dharmapuri District***, on condition that each of 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 second and third 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 second and third petitioners shall report before the respondent police as and when required for interrogation.

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

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

[e] On breach of any of the aforesaid conditions, the learned Magistrate is entitled to take appropriate action against the second and third petitioners in accordance with law as if the conditions have been imposed and the second and third petitioners released on bail by the learned Magistrate 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/-

29/06/2020

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.

(* Amended as per order dated 07.07.2020 passed by this Court)

TO

1 THE JUDICIAL MAGISTRATE,
HARUR, DHARMAPURI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
HARUR, DHARMAPURI DISTRICT.

CC to M/S. K.K.N.GANESHAN Advocate on payment of necessary charges

CRL OP.9526/2020

Date :29/06/2020

RVR 01/09/2020