



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2020

CORAM

WEB COPY THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.10381 of 2020

1.Vijayananth
2.Manikkam
3.Umarani

... Petitioners/Accused Nos.1 to 3

Vs.

The State represented by,
The Inspector of Police,
Gangavalli Police Station,
Salem District.
(Crime No. 321 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest by the respondent police pending investigation in Crime No.321 of 2020 on the file of the respondent police.

For Petitioners : Mr.S.Panneerselvan

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

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 9(1), 10 of POCSO Act, 9, 10 and 11 of Prohibition of Child Marriage Restraint Act, 494 IPC and 4 of Women Harassment Act, in Crime No.321 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz., Subiksha, age 17 years, is that the parents of the first accused have compelled her and got her married to the first petitioner. The first petitioner and his parents have harassed her and later she had left from the Matrimonial Home. Further allegation is that subsequently the first petitioner has married another lady. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that originally marriage was fixed between the first petitioner and elder sister of the defacto complainant. Before the marriage, the elder sister of the defacto complainant has eloped with



somebody and thereby, her parents got her married to the first petitioner. He would submit that the petitioners are not aware that the victim/defacto complainant was a minor girl and only on the compulsion of her parents, the marriage was conducted. While she was living with the petitioner, she was not interested in the marriage and she has left from the matrimonial home. Thereafter, suspecting that the first petitioner has married someone else, a false complaint has been given alleging that first petitioner has married again. He would further submit that the petitioners are prepared to appear before the respondent police for investigation and the first petitioner is prepared to subject himself to any kind of medical examination done by the respondent. He would also submit that the first petitioner will cooperate for the investigation. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the marriage between the first petitioner and the elder sister of the defacto complainant was fixed prior to their marriage and thereafter, elder sister of the defacto complainant eloped with somebody. Thereby, the parents of the defacto complainant have fixed marriage between the first petitioner and defacto complainant and that while she was in the matrimonial home, she did not like the marriage and she got away from the matrimonial home and had given a complaint. Further allegation is that the first petitioner got married to some other lady after some time.

5 Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6 Accordingly, the petitioners are directed to be released on bail in the event of their 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 No.II, Attur, on condition that the each petitioner 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 first petitioner shall report before the respondent police daily at 10.30 a.m., until further orders. The second and third petitioners shall report before the respondent police daily at 10.30 a.m., for a period of one week and thereafter, as and when required for the interrogation.



[c] the first petitioner shall cooperate with the respondent in his investigation and he has to subject himself to any kind of medical examination conducted during the course of investigation. It is also made clear that if the petitioner does not cooperate for medical examination, prosecution is at liberty to file application to cancellation of bail.

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

8 With the above directions, this Criminal Original Petition is ordered.

-sd/-

15/07/2020

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.



1 THE JUDICIAL MAGISTRATE,
NO.II, ATTUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM DISTRICT.

CC to MS. S.PANNER SELVAM Advocate on payment of necessary
charges Sr.5726

CRL OP.10381/2020

Date :15/07/2020

RVR 20/07/2020