

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10655 of 2020

Thangamani

...Petitioner

-Vs-

State Rep. By the Inspector of Police,
All Women Police Station, Avinashi,
(Crime Number 09 of 2019)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of her arrest in Crime Number 09 of 2019 pending on the file of the Respondent Police.

For Petitioners : Mr.P. Kalimuthu

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

ORDER

(The case has been heard through video conference)

The petitioner who apprehend arrest at the hands of the respondent police for the offences publishable under Sections 366 IPC, 5(i)(ii), 6 of Protection of Child from Sexual Offences Act, 2012 and under Section 9 of the 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 as per the defacto complainant kalaimani, she is the elder sister of Geetharani. The further allegation is that her sister Geetharani had conducted the marriage of her daughter, who was aged about 15 years with A1 and the minor girl delivered one male child. Based on the complaint given by her, a case was registered for the offences under Sections 366 IPC, 5(i)(ii), 6 of Protection of Child from Sexual Offences Act, 2012 and under Section 9 of the Prohibition of Child Marriage Act, 2006 and A1 was arrested and released on bail. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that petitioner is innocent and she is the mother of the alleged victim girl. He would submit that the defacto complainant and the petitioner are sisters and since they were having a property

dispute, the false complaint has been given. Now the victim girl has attained majority and in order to create a problem in the family, a false complaint has been given by the defacto complainant. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner is the mother of the victim girl named Madhumitha and that before she attained majority, she got married with A1 and due to which she delivered a male child. He would further submit that in this case a statement has been recorded from the victim girl and that the marriage was performed only with the assistance of defacto complainant and she has also been arrayed as an accused in this case.

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

6. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the Mahila court, Tiruppur District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, 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 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 petitioner shall report before the Respondent everyday at 10.30 a.m., for a period of one week and thereafter as and when required.

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

[d] the 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 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.

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

8. For reporting compliance, post on 07.08.2020.

-sd/-
16/07/2020

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.

TO

1 THE MAHILA COURT,
TIRUPPUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AVINASHI

CC to M/S. P.KALIMUTHU Advocate on payment of necessary charges

सत्यमेव जयते CRL OP.10655/2020

Date :16/07/2020

MK:30/07/2020

WEB COPY