

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10697 of 2020

1. G.Parimala
2. Govindaraj

... Petitioners

Vs.

State rep. by

....Respondent

The Inspector of Police,
All Women Police Station,
Polur.

(Crime No.03 of 2018)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.03 of 2018 on the file of respondent.

For Petitioners : M/s.M.Krishnamoorthy
R.Hari
S.Sagayanathan

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

ORDER

(The case has been heard through Video Conferencing)

The petitioners who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 498(A) IPC, Section 4 of Dowry Prohibition Act and Section 4 of Women Harassment Act, 2002 and Sections 9, 11 of Child Marriage Act 2006 r/w Section 3(a) 4 of POCSO Act, 2012 on the file of the respondent police in Crime No.03 of 2018, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant, Anusuya, who is a minor is that she was given into marriage with A1 on 05.09.2016 and for few months after the marriage, she was happy with her family. Thereafter, her husband and in-laws started to harass her by demanding dowry and the revenue of her house and driven her out from the matrimonial home. Thereafter, on 01.08.2017, her husband and his

family members came to the defacto complainant's parents home, assaulted and injured the complainant and removed her Mangal Sutra. Therefore, initially a case was registered under Sections 498(A) IPC, Section 4 of Dowry Prohibition Act and Section 4 of Women Harassment Act, 2002 against A1 to A4. and Sections 9, 11 of Child Marriage Act 2006 r/w Section 3(a) 4 of POCSO Act, 2012. Thereafter, during enquiry by the District Social Welfare Officer, it was found that the victim was minor at the time of marriage that the offences were altered to Sections 498(A) IPC, Section 4 of Dowry Prohibition Act and Section 4 of Women Harassment Act, 2002 and Sections 9, 11 of Child Marriage Act 2006 r/w Section 3(a) 4 of POCSO Act, 2012 and the petitioners/the parents of the victim were implicated as A5 and A6 in this case.

3. The learned counsel appearing for the petitioners would submit that the petitioners are the parents of the defacto complainant. The defacto complainant got married to A1 and thereafter, she was not interested in the marriage life. Therefore, she came back to the petitioners' house and that a matrimonial dispute has been exaggerated in the complaint. He would further submit that co-accused have been granted anticipatory bail by the Court below. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners are the parents of the victim. They had given their daughter into marriage with A1 when she was a minor. Thereafter, the accused mainly the husband of the victim, driven her out of the matrimonial house. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions made by the learned counsel and the fact that co-accused have been granted anticipatory bail by the Court below, this Court is inclined to grant Anticipatory Bail to the petitioners subject to the following conditions:

6. 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier**, before the learned Special Court for Trial of Cases under POCSO Act, Thiruvannamalai, on condition that the petitioners shall execute a separate 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 conditions 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 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 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.

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

-sd/-
17/07/2020

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 SPECIAL COURT FOR TRIAL CASES OF POCSO
ACT, THIRUVANNAMALAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALLWOMEN POLICE STATION,
POLUR.

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

CRL OP.10697/2020

Date :17/07/2020