

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11438 of 2020

1.S.Rajendran
S/o.Subarayan

2.R.Shanthi
W/o.S.Rajendran

... Petitioners

Vs.

State rep. by its
The Inspector of police
Gengavalli Police Station,
Gengavalli Taluk,
Salem District.
Crime No. 321 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on anticipatory bail in the event of arrest in Crime No.321 of 2020 on the file of the respondent police.

For Petitioners : M/s.S.Ambigapathi

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 494 IPC and section 9(1), 10, 9, 10 & 11 of Protection of Child from Sexual Offences Act, 2012 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 accused. The first accused and his parents have harassed her and later she had left from the Matrimonial Home. Further allegation is that subsequently the first accused has married another lady. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated. He would further submit that the co-accused have been granted anticipatory bail by this Court in Crl.O.P.No.10381 of 2020 dated

15.07.2020. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the marriage between the first accused 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 accused 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 accused got married to some other lady after some time. Hence, he opposed to grant anticipatory bail to the petitioners.

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 ordered to be released on bail in the event of their arrest by the respondent police or on their appearance, within a period of fifteen days from the date of lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the Judicial Magistrate-II, Attur, 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.

[b] the first petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter every monday at 10.30 a.m., until further orders. The second petitioner 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

04/08/2020

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 JUDICIAL MAGISTRATE,
NO.II,ATTUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
GENGAVALI POLICE STATION,
GENGAVALI TALUK,
SALEM DISTRICT.

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

सत्यमेव जयते

CRL OP.11438/2020

Date :04/08/2020

RD 28/08/2020

WEB COPY