

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12048 of 2020

Priya

... Petitioner

Vs.

State Rep. By

The Inspector of Police,
Kolathur Police Station,
Salem District.

(Crime No.376/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner in the event of her arrest in Crime.No.376 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.M.Esakkiyappan

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 363 & 366 of IPC, Section 5(1), 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2012 in Crime No. 376 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant, who is the mother of the victim girl is that her child was found missing from her house on 11.06.2020. During investigation, it was found that one Vignesh had abducted her. On finding that the victim was a minor girl, the case was altered to offence under Section 363 & 366 of IPC, Section 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and she has been falsely implicated in this case, since she happens to be sister of one Vignesh. He would submit that the said Vignesh was having love affair with the daughter of the defacto complainant. The parents had opposed the love affair and the victim had eloped with Vignesh and they got

married at Thibbampatti. He would further submit that the co-accused have been granted bail by this Court in CrI.O.P.No.9668 of 2020 dated 01.07.2020 and CrI.O.P.No.10954 of 2020 dated 23.07.2020. hence, he seeks to grant Anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is a sister of the said Vignesh who has abducted the minor daughter of the defacto complainant. He would submit that the victim has been secured and A1 was also arrested and released on bail in CrI.O.P.No.10954 of 2020 dated 23.07.2020.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the Counsels, 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Special Court for Exclusive Trial of cases under POCSO Act, Salem, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, 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 daily 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
12/08/2020

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT

CC to A.ESAKKIAPPAN Advocate on payment of necessary charges

CRL OP.12048/2020

Date :12/08/2020

MK:25/08/2020

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