

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.12062 of 2020

1.Mageshwari
2.Poongavanam

... Petitioners/ A2-A3

Vs.

The State Represented by,
The Inspector of Police,
Veraiyur Police Station,
Tiruvannamalai District.
(Crime No. 1851 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 arrest in Connection with the Crime No. 1851 of 2020 pending investigation, on the file of the respondent police.

For Petitioners : Mr.M.Rebecca

For Respondent : Mr. M. Mohammed Riyaz,
Additional Public Prosecutor

ORDER

(This 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 355, 323, 354(D), 376(1), 506(1) of IPC and Section 3(a) r/w 4 and 5(i) r/w 6 of POCSO Act, 2012, in Crime No.1851 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz., Annadurai is that, A1/Poovarasana committed sexual assault on his minor daughter aged 14 years and when the defacto complainant and his family members had questioned the same, the petitioners, who are the mother and daughter of A1 have abused and assaulted the wife and elder daughter of the defacto complainant. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that the petitioners and the defacto complainant are close relatives and that there was an affair between the son of the second petitioner and the daughter of the defacto complainant and it was an prohibited relationship and that the petitioners were totally unaware of their relationship and they have been falsely implicated in this case as if, they have abused and assaulted the defacto complainant's wife and his elder daughter. He would submit that A1 has been arrested and he is still in custody. He would further submit that the petitioners are prepared to report before the respondent police. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor (Crl.Side) appearing for the respondent would submit that the son of the second petitioner had a prohibited relationship with the daughter of the defacto complainant and had committed penetrative sexual assault on the minor daughter of the defacto complainant and when it was questioned, the petitioners have assaulted the wife of the defacto complainant with a slipper and they have also threatened them. He would submit that the first accused has been arrested and he is still in custody. Hence, he opposed to grant anticipatory bail to the petitioners.

5 Heard both sides and perused the materials placed on record.

6 On a perusal of the records, the allegation against the petitioners is that when the relationship between the son of the second petitioner and the daughter of the defacto complainant was questioned, the petitioners have assaulted and abused the mother and sister of the victim girl.

7 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;

8 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the **learned Judicial Magistrate No.1, Tiruvannamalai**, 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 petitioners shall report before the respondent police every day at 10.30 a.m., until further orders.

[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.

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

-sd/-
08/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE JUDICIAL MAGISTRATE NO.I,
TIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VERAIYUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.12062/2020

Date :08/09/2020

MK:17/09/2020



WEB COPY