

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2020

CORAM :

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

Crl.O.P.No.12329 of 2020

Kanga

Petitioner

/versus/

State represented by
The Inspector of Police,
Dharmapuri All Women Police Station
Dharmapuri District,
(Crime No.03 of 2020)

Respondent

Prayer: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.03 of 2020 on the file of Respondent Police.

For Petitioner : Mr.M.Srinivasan

For Respondent : Mr.M.Mohamed Riyaz
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 alleged offences punishable under Sections 5 (1) & 6 of the Protection of Child from Sexual Offence Act, 2012 (POCSO), 9 & 10 of the Prohibition of Child Marriage Act, 2006 and 342 & 506 (1) of IPC in Crime No.3 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution, as per the de-facto complainant viz., Ashwini, is that when she was a minor girl the accused have joined together and performed the marriage with A1, who is already a married man, suppressing the earlier marriage and thereafter, A1 and his mother & sister joined together and harassed and threatened the de facto complainant in his mother's house. Hence, the complaint.

3. The learned counsel for the Petitioner would submit that the petitioner belongs to Vanniyar community and the defacto complainant belongs to Nadar community. The de facto complainant had an affair with A1, who is the brother of the petitioner and they eloped from their home. The de facto complainant was aware of the first marriage of A1. He further submitted that the petitioner is the sister of A1 and the de facto complainant given a false complaint against the entire family members. A1 the brother of the petitioner and A4 the mother of the petitioner have been arrested and they are in custody and the petitioner is a cancer patient and she is taking treatment for cancer.

4. The learned Additional Public Prosecutor would submit that the petitioner along with the other family members conducted the marriage of A1 with the victim when she was a major suppressing the earlier marriage. He further submitted that A1 harassed the victim and hence, she escaped from the house.

5. Heard the counsels.

6. Taking into consideration the facts and circumstances of the case and that the petitioner is a cancer patient, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days from the date of the commencement of the Court's normal functioning, before the learned Judicial Magistrate, Additional Mahila Court, Dharmapuri, on condition that the 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 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 Police every day 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

10/09/2020

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,
ADDITIONAL MAHILA COURT,
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
DHARMAPURI ALL WOMEN POLICE STATION,
DHARMAPURI DISTRICT.

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

WEB COPY

CRL OP.12329/2020

Date :10/09/2020

cs 21/09/2020