

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2020

CORAM :

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

Crl.O.P.No.12995 of 2020

1. Sakthi @ Sakthivel
2. Kumar @ Santhakumar
3. Sankar
4. Sakthi @ Sakthivel
5. Sivalingam
6. Thangamani
7. Vanitha

.... Petitioners

Vs.

The State Rep by its
The Inspector of Police,
All Women Police Station,
Harur, Dharmapuri District.
(Crime No.11 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.11 of 2020 on the file of the respondent police.

For Petitioners : Mr.V.Sakkarapani

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 offences punishable under Sections 366, 366 A IPC and section 5(i), 6, 16, 17 of POCSO Act and Section 9, 10 of Prevention of Child Marriage Act 2006, in Crime No.11 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Santhosini is that while she was a minor, the first accused had kidnapped and committed sexual assault and married her. Thereafter on 06.02.2018, the Village Administrative Officer and the Revenue Inspector had conducted enquiry and finding that the defacto complainant is a minor and advised the first accused to hand over the defacto complainant to her parents and as per the

advise of the Officers, the first accused left the defacto complainant in her parents house. Now the defacto complainant has become major, therefore, on 01.07.2020 the defacto complainant's father approached the first accused's family to conduct the marriage of the defacto complainant and the first accused, at that time the first accused's mother and his brother demanded dowry of 20 sovereign jewels and certain amount to conduct the marriage. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case and they are only relatives to the first accused. He would submit that the defacto complainant and the first accused are relatives and the marriage was conducted between the defacto complainant and the first accused and they have attended the marriage. Subsequently, they came to know that the defacto complainant was a minor and it was a child marriage and they have nothing to do with the offence. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the first accused had committed sexual assault on the victim and a false promise was given by the first accused that when the defacto complainant attains majority, the marriage will be conducted. Now the accused have demanded dowry to conduct the marriage. He would submit that the present petitioners are relatives of the main accused. However, he opposed for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel and the petitioners are only relatives to the first accused, 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 Court's normal functioning whichever is earlier, before the learned Fast Track 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 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. for a period of two weeks and thereafter as and when required.

[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 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/-
16/09/2020

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 FAST TRACK MAHILA COURT, DHARMAPURI

2 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

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

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

CRL OP.12995/2020

Date :16/09/2020

GKS:24/09/2020