

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13222 of 2020

1. Gunasekar,  
S/o. Munusamy

2. Gopi,  
S/o. Sivakumar

... Petitioners

Vs.

State Rep. by  
The Station House Officer,  
Gingee Police Station,  
Villupuram District.  
(Crime No.662 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 pending investigation in Crime No.662 of 2020, on the file of the respondent police.

For Petitioners : Mr. V.R.Appaswame

For Respondent : Mr.M.Mohamed Riyaz  
Additional Public Prosecutor

ORDER

(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(A) of I.P.C. and Section 4 of Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Crime No.662 of 2020, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that one Prathap had kidnapped the defacto complainant's minor daughter and the petitioners have helped to him. 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, since they are happened to be friends of A1. He would further submit that the A1 was arrested and thereafter

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

4. The learned Additional Public Prosecutor would submit that the first accused in this case had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual harass on her. He would submit that A1 was arrested and thereafter enlarged on bail. The allegation against the petitioners is that they have helped the A1 by giving their two wheeler. However, he opposed for grant of anticipatory bail to the petitioners.

5. Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain 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 from the date on which the order copy made ready, before the Special Court for Exclusive Trial of cases under POCSO Act, Villupuram, on condition that each of 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 petitioners shall report before the respondent police at 10.30.am. for a period of two weeks 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-  
28/08/2020

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,  
VILLUPURAM

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE STATION HOUSE OFFICER,  
GINGEE POLICE STATION,  
VILLUPURAM DISTRICT.

+1 CC to V.R.APPASWAMEE Advocate on payment of necessary charges  
sr no.6064

CRL OP.13222/2020

Date :28/08/2020

RD 10/09/2020

सत्यमेव जयते

WEB COPY