

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.13879 of 2020

S.Chinnaponnu

... Petitioner

/versus/

State represented by
The Inspector of Police,
All Women Police Station
Villupuram.
(Crime No.21 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.21 of 2020 on the file of Respondent Police.

For Petitioner : Mr.V.Janarthanan

For Respondent : Mr.M.Mohamed Riyaz
Addl 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 323 of IPC r/w. 5 (1), 6 of POCSO Act and Section 9 & 10 of Prohibition of Child Marriage Act, 2006 in Crime No.21 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution, as per the de-facto complainant, is that the victim is 15 years old and her father died and that her mother and grandmother conducted the marriage with her maternal uncle Veerappan against her wishes. Since, she did not like him, she eloped with one Gajendran, and later, she preferred the complaint.

3. The learned counsel for the Petitioner would submit that the petitioner is the mother of A1 and A2. He further submitted that the victim's father died when she was 15 years and she was under the care and custody of the petitioner. While so, she developed intimacy with one Gajendran and left her house. When they reprimanded her, she has given a false complaint as against

the petitioner who is her grant mother (A3), mother (A2) and maternal uncle (A1) as if, they conducted child marriage. A2 who is the daughter of the petitioner and the mother of the victim girl was arrested and now she has been released on bail. On instructions, he further submitted that the petitioner is aged about 65 years and she had not committed any offence. In fact, the petitioner is a person living below poverty line and she did not understand the consequences.

4. Heard the learned Counsels and perused the copy of the statement recorded from the victim girl under Section 164 Cr.P.C.

5. The learned Additional Public Prosecutor would submit that the petitioner is the grandmother of the victim. The father of the victim had passed away and thereby the petitioner and the mother of the victim, conducted the marriage between the victim and A1 who is the son of the petitioner and thereafter, A1 committed penetrative sexual assault. During investigation, it came to like that she had eloped with one Gajendran and therefore, he is also added as A4 in this case. The victim's statement has been recorded under Section 164 of Cr.P.C., and the investigation is pending.

6. Taking into consideration the facts and circumstances of the case and the fact that A2, the mother of the victim, has been arrested and released on bail, 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 Special Court for trial of cases under the Protection of Children from Sexual Offences Act (POCSO), Villupuram, on condition that the petitioner shall execute a 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 every Monday at 10.30 a.m., until further orders.

[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 SPECIAL COURT FOR TRIAL
OF CASES UNDER PROTECTION OF CHILDREN FROM
SEXUAL OFFENCES ACT(POCSO), VILLUPURAM

2 THE PUBLIC PROSECUTOR,HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VILLUPPURAM DISTRICT

+1 CC to M/S.V.JANARTHANAN Advocate on payment of necessary charges SR.NO.6218

CRL OP.13879/2020

Date :10/09/2020

GKS:18/09/2020