

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.13878 of 2020

Chitra

... Petitioner

-Vs-

State Rep by

The Inspector of Police,

All Women Police Station,

Arni, Thiruvannamalai District.

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of her arrest by the respondent police in Crime No.11 of 2019 on the file of the respondent police.

For Petitioner : Mr.G.Saravanan

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

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences publishable under Sections 376 of IPC, 3(a) r/w 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9 and 11 of the Prohibition of Child Marriage Act, 2006, in Crime No.11 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A1 had kidnapped the victim girl and committed penetrative sexual assault on her on the false promise of marriage and thereafter had taken her to temple and married her. Hence, the complaint.

3.The learned Counsel for the petitioner submitted that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is the maternal aunt of A1 and she had attended the marriage and other than that she has nothing to do with the offence, therefore the petitioner's name has been arrayed as accused and also submitted that A1 has been arrested and thereafter released on bail.

Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that A1 had kidnapped the minor girl and committed penetrative sexual assault on the false promise of marriage. He further would submit that the petitioner who is the maternal aunt of A1, along with other accused, had conducted the child marriage. He would submit that the victim has been secured and her statement under Section 164 Cr.P.C. has been recorded in which, nothing has been stated against the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of her arrest or on her appearance, within a period of fifteen after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Arni, Tiruvannamalai District, 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 two weeks and thereafter as and when required for interrogation.

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

7. 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

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

TO

1 THE JUDICIAL MAGISTRATE,
ARNI, TIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARNI, THIRUVANNAMALAI DISTRICT.

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

CRL OP.13878/2020

Date :08/09/2020

cs 25/09/2020

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