

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14032 of 2020

1.D.Govindaraj
2.Thilothammal
3.Sundari
4.Murugan

... Petitioners

Vs.

The State of Tamil Nadu,
Rep.by, the Inspector of Police,
Kanjapur Police Station,
Villupuram District.
(Crime No.438 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioners on bail in the event of their arrest pending investigation in Crime No.438 of 2020 on the file of the respondent.

For Petitioners : Mr.C.K.M.Appaji

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 Section 366 A of IPC & Section 5(1) & (6) of the POCSO Act, 2012, r/w. Section 9 of the Child Marriage Act, in Crime No.438 of 2020, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant is that the first accused kidnapped the de-facto complainant's daughter and committed penetrative sexual assault on her and the petitioners, who are the relatives of the first accused, arranged accommodation for them. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are the relatives of the first accused viz., Pragalathan. The said Pragalathan had love affair with the minor victim and they eloped from their house without the knowledge of the parents and got married. After registration of the case, the first accused along with the victim surrendered before the respondent police. He would further submit that the statement of the victim was recorded under Section 164 Cr.P.C. and the first accused was arrested and later released on bail. As being the relative of the first accused, the petitioners had arranged accommodation for them, and hence, they were arrayed as accused Nos.2 to 5 in this case. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners, who are relatives of the first accused, were arrayed as accused No.2 to 5. The first accused kidnapped the minor victim girl and conducted marriage at a Temple in Melmaruvathur and thereafter he had sexual intercourse with her. The petitioners herein arranged accommodation for them. Hence, he opposed to grant anticipatory bail to the petitioners.

5. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Sessions Judge, Special Court for exclusive Trial of Cases under POCSO Act, Villupuram (FAC), on condition that each 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 everyday at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

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

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

-sd/-
21/09/2020

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,VILLUPURAM (FAC)

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KANJANUR POLICE STATION,
VILLUPURAM DISTRICT

CC to M/S.C.K. M. APPAJI Advocate on payment of necessary charges

CRL OP.14032/2020

Date :21/09/2020

GKS:28/09/2020