

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.14904 of 2020

1.M.Siva
2.C.Manikandan

.. Petitioners

Vs.

The State rep. by
The Inspector of Police
Thandarampattu Police Station
Tiruvannamalai.
Cr.No.2613 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioners on bail in the event of their arrest in Crime No.2613 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.Krishnamoorthy

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 alleged offences under Sections 366(A) of IPC, Section 4 r/w 3(a) and Section 6 r/w5(1) of POCSO Act, in Crime No.2613 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant one Tamil Selvi, who is the mother of the victim girl is that the accused had kidnapped her minor daughter and committed penetrated sexual assault on her.

3. The learned counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that there was love affair between the first petitioner/A1 and the victim girl and since it was objected by the parents of the victim girl, the victim girl had eloped with the first petitioner. He would further submit that the

petitioner understands that a statement has been recorded under Section 164 of Cr.P.C from the victim girl, where she has stated that on her compulsion only the first petitioner had gone along with her. The victim girl was produced before the respondent police, however, no allegation of sexual assault has been made against the first petitioner. The learned counsel for the petitioners submitted that they are prepared to appear before the respondent police regularly for any kind of enquiry.

4. The learned Additional Public Prosecutor would submit that the petitioners kidnapped the victim girl and thereafter, the first accused committed sexual assault on her. However, he would submit that during the statement recorded from the victim girl under Section 164 of Cr.P.C she has not stated anything about that the first petitioner having committed any sexual assault.

5. Heard both sides and perused the records.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

a) 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 of the commencement of the Court's normal functioning whichever is earlier, before the learned Special Judge, Special Court for Trial of Cases under POCSO Act, Thiruvannamalai, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] 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.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[g] 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
23/09/2020

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 POCSO ACT,
THIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
THANDARAMPATTU POLICE STATION,
TIRUVANNAMALAI.

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

CRL OP.14904/2020

Date :23/09/2020

cs 05/10/2020