

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.15554 of 2020

Nadhi @ Nadhiya

...Petitioner

Vs.

The State

Represent by Inspector of Police
Thirupapuliyur Police Station
Cuddalore.

(Crime No.541 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on anticipatory bail in the event of his arrest in connection with Crime No.541 of 2020 for the offence punishable under Section 5(1), 6 of POCSO Act, pending investigation on the file of the respondent.

For Petitioner : Mr.S.C.Vishwanth

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 alleged offences punishable under Section 5(1), 6 of POCSO Act, in Crime No.541 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz., Dhanavel is that his brother in law viz., Raja @ Sivaraman had kidnapped his minor daughter and had committed penetrative sexual assault on her. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she is the sister of the first accused viz., Raja @ Sivaraman and the maternal aunty of the victim girl. He would further submit that there was a love affair between the first accused/Raja @ Sivaraman and the victim girl and they had eloped from their home and stayed in the house of the petitioner. He would submit that without understanding the consequences, the petitioner had given accomodation to the first accused. He would further submit that the first accused has been arrested and enlarged on bail in CrI.M.P.No.370/2020, dated 22.06.2020 by the learned Speical Court for POCSO Cases, Cuddalore and that the petitioner is prepared to abide by any stringent condition that may be

imposed on her by his Court. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the elder sister of the first accused and that the first accused had kidnapped the minor daughter of the defacto complainant and brought her to the house of the petitioner and had committed penetrative sexual assault on her. He would further submit that A1 in this case has been arrested and enlarged on bail. However, he opposed to grant anticipatory bail to the petitioner.

5 Taking into consideration of the facts and circumstances of the case, submissions of 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 his arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Special Judge for POCSO Cases, Cuddalore, on condition that the petitioner 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 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 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/-

02/11/2020

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 JUDGE OF POCSO
CASES, CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
THIRUPPAPULIYUR POLICE STATION,
CUDDALORE.

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

CRL OP.15554/2020

Date :02/11/2020

RVR 10/11/2020

सत्यमेव जयते

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