

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.15815 of 2020

1. Perumal
2. Rukmani

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Kangayam, Tiruppur District.
(Cr.No.12 of 2019)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.12 of 2019 pending on the file of the respondent police.

For Petitioners : Mr.C.S.Saravanan

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

ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 9,11 of Prohibition of Child Marriage Act, 2006 altered into Section 9, 10, 11 of Prohibition of Child Marriage Act, 2006 and 5 (1), 6, 16, 17 of Protection of Children from Sexual Offences Act, 2012, in Crime No.12 of 2019, on the file of the respondent police, seek anticipatory bail.

2. The case was registered based on the intimation of Child Helpline. The petitioners, who are the parents of the victim minor, had performed the child marriage between the victim and one Balasubramanian, who is aged about 45 years. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners are living in utter poverty and due to intervention of the family members, they arranged the marriage of their daughter with one Balasubramanian. He is a well to do person and he had helped their family. He would further submit that the victim was in the verge of attaining majority and only a betrothal function was conducted with Al/balasubramanian and the petitioner and the victim were living in the house of the said Balasubramanian. Based on the complaint given by the Child Help line, the case was registered and Al was arrested and later enlarged on bail. He would further submit that the statement of the victim under Section 164 Cr.P.C., stated that there is no sexual assault by Al and the betrothal function was conducted only due to poverty. He would further submit that the petitioners have no source to give good education and good life to their daughter and they have agreed for the betrothal. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the the petitioners are the parents of the victim and they have conducted the child marriage between the victim and one Balasubramanian. He would further submit that the said Balasubramanian is an unmarried man, aged about 45 years. The statement under Section 164 of Cr.P.C recorded from the victim, there is no allegation of sexual assault against him. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Mahila Judge, Tiruppur, on condition that each of the 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 first petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders. The second petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required.

[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.

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

-sd/-

15/10/2020

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 MAHILA COURT,
TIRUPPUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KANGEYAM, TIRUPPUR DISTRICT.

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

CRL OP.15815/2020

Date :15/10/2020

cs 22/10/2020

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