

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17099 of 2020

1.Unnamalai
2.Gomathi
3.Chitra

...Petitioners

Vs.

The State represented by
The Inspector of Police
Thimiri Police Station
Arcot Taluk
Ranipet District
(Ref Crime No.783 / 2020 dated 25.10.2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of arrest by the respondent police in Crime No.783 of 2020 on the file of the respondent police.

For Petitioners: Mr.C.Arun Kumar

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

ORDER

(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 Sections 363, 312, 341, 323 IPC & 5(L), 5(J) (ii) read with 6 of POCSO Act 2012 and Section 9, 11 of Child Marriage Restraint Act, 1929, in Crime No.783 of 2020, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Ramya aged 18 years is that while she was at the age of 17 years, her uncle T.R.Sampath had compelled and threatened her mother and grandmother to give her in marriage with his second son and thereafter during the year 2019, the defacto complainant was forcefully taken to Kudiyattam in their vehicle and she was married to his uncle's son Dharani against her wish. Since, the defacto complainant was the only daughter, 10 sovereigns of jewels and other articles were given and she was with her husband Dharani for about six months during which, the husband of the defacto

complainant committed penetrative sexual assault on the defacto complainant against her wish following which, she became pregnant. Therefore, the said Sampath/her father-in-law, her husband Dharani and her mother-in-law had kept her in an illegal detention and thereafter on 14.11.2019 had taken her to Arcot Fathima Hospital and committed abortion and thereafter, they brought the defacto complainant to her house and left there on 17th November 2019. Subsequently, she was taking treatment in a private hospital. While so, on 13th June 2020, the said Sampath along with his first son Hari Badu and three other persons came to the house of the defacto complainant and threatened and assaulted the defacto complainant and her mother, grandmother and her elder maternal aunt to vacate the house. Since, her father-in-law and his family members were continuously threatening the defacto complainant and her family members through hirelings to vacate the house, the complaint has been given by the defacto complainant.

3. The learned Counsel for the petitioners would submit that the first petitioner Unnamalai is the grandmother, the second petitioner Gomathi is the mother and the third petitioner Chitra is the elder maternal aunt of the defacto complainant. He would further submit that the second petitioner Gomathi was arrested and subsequently, released on bail. Hence, he would submit that the petition in respect of the second petitioner has become infructuous.

3.1 The learned Counsel for the petitioners would further submit that the allegation against the petitioners is that they along with the first accused T.R.Sampath, had performed the child marriage between the defacto complainant and the second accused Dharani S/o T.R.Sampath. The actual fact remains is that the said Sampath is the maternal uncle of the defacto complainant. He had forcefully taken the victim and performed marriage and thereafter they have also caused abortion to the victim. Later, they have threatened the defacto complainant and her family members/the petitioners herein, to vacate from the house and that the petitioners are the victim in this case. Hence, he prays for grant of anticipatory bail to the 1st and 3rd petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners are the grandmother, mother and elder maternal aunt of the defacto complainant. The allegation against the petitioners is that the petitioners along with the main accused one Sampath had performed child marriage between the defacto complainant and the second son of the said Sampath. Subsequently, she became pregnant and also suffered abortion. Thereafter, the husband and in-laws of the defacto complainant have left her at her mother's home. Subsequently, there was a property dispute between the family members. While so, the said Sampath along with his first son Haribabu and hirelings had gone to the house of the defacto complainant, threatened and assaulted the defacto complainant and her family members/the petitioners herein, to vacate the house. He would further submit that the husband of the defacto complainant was arrested and also enlarged on bail and the statement of the

victim girl has also been recorded under Section 164 Cr.P.C. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioners.

5. Heard the learned Counsels and perused the materials placed on record including the statement of the victim girl recorded under Section 164 Cr.P.C.

6. In view of the fact that the second petitioner was arrested and she has also been released on bail, this petition in respect of the second petitioner is dismissed as infructuous.

7. Considering the above facts and circumstances of the case and the submissions made by the learned Counsels and the co-accused in this case have been arrested and enlarged on bail, this Court is inclined to grant anticipatory bail to the **petitioners 1 and 3** with certain conditions.

8. Accordingly, **the petitioners 1 and 3** are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the **learned Judicial Magistrate-I, Wallaja**, on condition that 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 petitioners 1 and 3 shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter, as and when required for interrogation.

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

-sd/-
15/12/2020

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-I,
WALLAJA.

2 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIMIRI POLICE STATION,
ARCOT TALUK, RANIPET DISTRICT.

+1 CC to M/S. C.ARUN KUMAR Advocate on payment of necessary charges SR NO.8261

CRL OP.17099/2020

Date :15/12/2020

MN-04/01/2021

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