

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17194 of 2020

1.Padaiyappa
2.Pandiyan
3.Usha
4.Sundaram @ Sundara Varadhan
5.Manjula

...Petitioners

Vs.

The State rep. by
The Sub Inspector of Police
Nemili Police Station
Ranipet District
Crime No.476 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.476 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.D.Gopi Krishnan

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 alleged offences under Sections 147, 294 (b), 323, 363, 366(A) IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 in Crime No.476 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the de-facto complainant viz., Maheswari is that the 1st accused Parthiban had kidnapped her daughter and committed penetrative sexual assault on her and when the victim girl had asked the parents and relatives of the A1 to arrange for the marriage, the accused abused and intimidated her.

3. The learned counsel for the petitioners would submit that the 1st and 2nd petitioners are the brothers, 3rd petitioner is the

Aunt, 4th petitioner is the paternal uncle and 5th petitioner is the mother respectively of A1. He would further submit that there was a love affair between the 1st accused and the minor victim girl, due to which both of them had eloped on 29.09.2020. Whereas, a complaint has been given only on 21.10.2020 after both of them were returned to their homes. He would further submit that the petitioners were not aware of the love affair between A1 and the minor victim girl and that the names of the petitioners have been unnecessarily roped in this case. He would further submit that the family members of the 1st accused pressurised to arrange for the marriage between the victim girl and the 1st accused. He would further submit that A1 was arrested and later, he was enlarged on bail. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners are relatives of the main accused one Parthiban and the said Parthiban had kidnapped the daughter of the de-facto complainant and committed penetrative sexual assault on her. Later, she had gone back to her parent's house. Further, it is alleged that accused have abused and intimidated the victim girl. He would further submit that investigation has been completed.

5. Heard both sides and perused the materials on record including the statement recorded under Section 164 of Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case and also 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 from the date of receipt of a copy of this order, before the **learned Judicial Magistrate, Arakkonam**, on condition that the petitioner 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 for a period of two weeks and thereafter, on every Monday 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.

[f] 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]**.

[g] 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/-
08/12/2020

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,
ARAKKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
NEMILI POLICE STATION,
RANIPET DISTRICT.

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

CRL OP.17194/2020

Date :08/12/2020

TA-16/12/2020