

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18304 of 2020

1.Senthamarai
2.Rasiya

... Petitioners

Vs.

The State rep. by
The Inspector of Police
Pappireddipatti Police Station
Dharmapuri
Crime No.41 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.41 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.K.Sarath Kumar

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 363, 366 of IPC and 5 (1) r/w 6, 16 r/w 17 of POCSO Act, 2012 and Section 9 of Prohibition of Child Marriage Act 2006, in Crime No.41 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Shanthi Mari is that her minor daughter, who is studying 12th standard was found missing. Based on the complaint, initially the case was registered under the caption "Girl Missing". During the course of investigation, it came to light that Al Surrender had kidnapped the victim girl and had committed penetrative 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 1st petitioner is the Aunt of A1 and the 2nd petitioner is the mother of A1. He would further submit that the 1st accused Surrender developed intimacy with the victim girl and both of them had eloped without the knowledge of both their parents. Thereafter, a case was registered and the victim girl was secured. He would further submit that A1 was arrested and later, he was released on bail. He would further submit that the allegation against the 1st petitioner is that she gave accommodation to the 1st accused and the victim girl to stay in her house. He would further submit that the arrested accused have been enlarged on bail. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the 1st petitioner is aunt 1st accused and the 2nd petitioner is mother of the 1st accused. It is alleged that the 1st accused kidnapped the minor daughter of the de-facto complainant and had committed penetrative sexual assault on her. Later, the victim girl has been secured. He would further submit that A1 and other accused were arrested and later, they have been released on bail. He would further submit that investigation in this case has been completed and a final report has been filed before the Mahila Court in Special S.C No.54 of 2020. The allegation against the 1st petitioner is that she provided accommodation to the 1st accused and the victim girl.

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 Mahila Judge, Fast Track Mahila Court, Dharmapuri. 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 appear before the Mahila Court, Dharmapuri daily at 10.30 a.m for a period of four weeks and thereafter, on the date fixed by the trial Judge.

[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 MAHILA JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PAPPIREDDIPATTI POLICE STATION,
DHARMAPURI DISTRICT

+1CC to M/S. K. SARATH KUMAR Advocate on payment of
necessary charges SR NO.8043

CRL OP.18304/2020

Date :08/12/2020

MK:15/12/2020



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