

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE Mr. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.18623 of 2020

1.Dhanapal
2.Lakshmi
3.Selvi
4.Arumugam
5.Thenmozhi

... Petitioners/Accused 4 to 8

Vs.

State Represented by,
The Inspector of Police,
All Women Police Station,
Villupuram, Villupuram District.
(Cr.No.24 of 2020)

... 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 Crime No.24 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.N.Chinnaraj

For Respondent : Mr.T.Shunmugarajeswaran
Govt. Advocate (CrI.Side)

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 punishable under Sections 9 & 10 of the Tamil Nadu Prohibition of Child Marriage Act, 2006 in Crime No.24 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the minor girl XXX is that she is aged about 13 years and that she stopped studying after VII standard and that she was at home and out of poverty, her father had intended to give her in marriage to the first accused Sakthivel, pursuant to which, a child marriage was performed on 26.10.2020 between the said Sakthivel and the de facto complainant/victim girl. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners are relatives of Sakthivel and Seenivasan and that they have only attended the marriage and they were not aware of the exact age of the victim. He would submit that the first accused Sakthivel and the second accused Seenivasan/father of the victim have been arrested and they have been enlarged on bail. He would submit that except attending the marriage, the petitioners have not done anything for conducting the child marriage. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the victim is aged about 13 years, out of poverty, her father Seenivasan had given her in marriage to the first accused Sakthivel and that based on the complaint given by the victim, the case was registered. He would submit that Sakthivel/A1, the husband of the de facto complainant and Seenivasan/A2, father of the de facto complainant were arrested and they have been enlarged on bail.

5. Taking into consideration the facts and circumstances of the case and the submissions made by 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 Court, Villupuram, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 shall report before the respondent Police everyday 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, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
18/12/2020

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 COURT,
VILLUPURAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VILLUPURAM,
VILLUPURAM DISTRICT.

CC to M/S.N.CHINNARAJ Advocate on payment of necessary charges

WEB COPY

CRL OP.18623/2020

Date :18/12/2020

cs 06/01/2021