

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18977 of 2020

1.Dharani
2.Haribabu

.. Petitioners

Vs.

The State rep. by
The Inspector of Police
Thimiri Police Station
Ranipet
Crime No.783 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioners on bail in Crime No.783 of 2020 pending investigation on the file of the respondent.

For Petitioners : Mr.I.Abdul Basith
For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 26.10.2020, for the alleged offences under Section 363, 312, 341, 323 IPC and Section 5(1) (j) (ii) r/w 6 of POCSO Act and Section 9, 11 of Prohibition of Child Marriage Act, in Crime No.783 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the 1st petitioner is the husband of the de-facto complainant and the 2nd petitioner is the elder brother of the 1st petitioner. It is alleged in the FIR that the petitioners and their family members forcefully solemnized the marriage between the de-facto complainant and the 1st petitioner, when she was only about 17 years. Thereafter, the father-in-law of the de-facto complainant namely T.R.Sampath (A1), is none other than her own maternal uncle along with other accused including these petitioners committed cruelty on her and trying to grab the ancestral property and further, the 1st petitioner forced the de-facto complainant to abort the foetus and also threatened her family members.

3. The learned counsel for the petitioners would submit that the entire allegation is nothing but an afterthought and counter-blast to an alleged ancestral property dispute between the de-facto complainant 's family and the petitioners' family. The marriage between the de-facto complainant and the 1st petitioner is an arranged marriage and the allegation of forced marriage is false one. He would further submit that the petitioners are in custody from 26.10.2020 and hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that there are totally seven accused in this case. A1/1st petitioner herein, is the husband, A2 - Gomathi, is the mother and A3-Sampath is the father-in-law, A4/2nd petitioner herein, is the brother-in-law, respectively of the victim. A5- Chitra is the sister of A2, A6-Unnamalai is the grand mother and A7- Shanthi is the mother-in-law, respectively of the victim. After three months from the date of marriage, the victim left the matrimonial home and went to her parent's house. He would further submit that A2 in this case was already granted bail by the POCSO Court, Vellore. He would further submit that a statement has been recorded from the victim under Section 164 of Cr.P.C and medical examination is also over. However, he vehemently opposed to grant bail to the petitioners.

5. Taking into consideration the facts and circumstances of the case and also the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, on their executing a 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 learned Judicial Magistrate No.I, Walaja**, 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 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/-
04/12/2020

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 NO.I, WALAJA

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE DIST [FOR INFORMATION]

3 THE SUB JAIL, WALAJA

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
THIMIRI POLICE STATION, RANIPET.

+1 CC to M/S.I.ABDULBASITH Advocate on payment of necessary charges SR.NO.7918

CRL OP.18977/2020

Date :04/12/2020

GKS:07/12/2020

WEB COPY