

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.18702 of 2020

1.T.R.Sampath
2.Santhi

.. 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.I.Abdulbasith

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

For Intervenor : Mr.C.Arunkumar

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 defaco 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 petitioners are innocents and they have been falsely implicated in this case. He would submit that the first petitioner is the father and the second petitioner is the mother of one Dharani who has married the defacto complainant. He would submit that the petitioners and the defacto complainant are close relatives. Since, the father of the defacto complainant passed away, the petitioners arranged for the marriage of the defacto complainant with their second son and the marriage was performed with the acceptance of the family members of the defacto complainant and that the grandmother, mother and elder maternal aunt of the defacto complainant had also agreed for the marriage and that they also informed the petitioners that the victim had attained majority. Only on their submissions, the marriage was performed between the defacto complainant and the second son of the petitioners, in the presence of the elders and relatives of the family. The learned Counsel would submit the marriage photographs filed in the typed would show submitted that the defacto complainant had happily agreed for the marriage. Thereafter, there was some matrimonial dispute between the defacto complainant and her husband. Thereby, she went out of the matrimonial house and given a false complaint against the petitioners. Thereafter, the grandmother and the mother of the defacto complainant had issued a notice in respect of the property which is already settled in favour of the first accused Sampath in the year 2007, which would clearly show that only due to property dispute and family dispute, a false complaint has been given against the petitioners. He would submit that the second accused/the husband of the defacto complainant was arrested and he has been granted bail and that the mother of the defacto complainant was also arrested and she has also been enlarged on bail. He would reiterate that the marriage was performed only after it was accepted by the family members of the defacto complainant and now in order to settle a civil dispute a false complaint has been preferred.

4. The learned Additional Public Prosecutor would submit that the petitioners are the father-in-law and mother-in-law of the

defacto complainant. The petitioners along with other accused had performed child marriage between the defacto complainant and their second son Dharani. 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 petitioners 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 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. However, he vehemently opposed for the grant of anticipatory bail to the petitioners.

5. The learned Counsel for the intervenor would submit that the petitioners had threatened the family members of the defacto complainant and forcefully kidnapped the victim girl and performed marriage with their second son. Thereafter, they brutally assaulted her due to which, she suffered abortion and thereafter, she was left at her mother's house. Subsequently, the petitioners along with others came to the house of the defacto complainant and asked the defacto complainant and her family members to vacate the house and also assaulted them. Hence, he would vehemently oppose for the grant of anticipatory bail to the petitioners.

6. At this juncture the learned Counsel for the petitioners would reiterate that the photographs filed along with the typeset would show that the marriage was conducted only with the acceptance of the defacto complainant and her family members and that the petitioners agreed for the marriage between the defacto complainant and their son only on the submission made by the mother and grandmother of the defacto complainant that the victim had attained majority.

7. 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.

8. Considering the above facts and circumstances of the case and the submissions made by the learned Counsels and the fact that the co-accused in this case were arrested and subsequently released on bail, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

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9. 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 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 shall report before the respondent police daily at 05.30 p.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

सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

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.

+1 CC to M/S.I.ABDULBASITH Advocate on payment of necessary
charges SR NO.8316

CRL OP.18702/2020

Date :15/12/2020

MN-04/01/2021



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