

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE V.SIVAGNANAM

Crl.O.P.No.20494 of 2020

1.Perumal
2.Kandhan

... Petitioners

- Vs. -

The State rep. By
The Inspector of Police,
Eriyur Police Station,
Dharmapuri District.
(Crime No.979 of 2020).

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioners on bail in connection with the Crime No.979 of 2020 pending investigation on the file of the respondent.

For petitioners: Mr.V.Sakkarapani

For Respondent : Mr.L.Charles Premkumar
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 03.12.2020 for the offences punishable under Sections 366A of the Indian Penal Code and Section 3 r/w 4 of POCSO Act and Section 9, 10, 11 of Child Marriage Act, 2006 in Crime No.979 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 10.11.2020, at about 17.00 hours, the defacto complainant, one-Thangaveni, lodged a complaint before the respondent police, alleging that her daughter namely Maheswari was found missing from her residence since 10.11.2020. 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 and moreover, the petitioners herein are father and grandfather of the victim. On the basis of the confession statement given by the victim girl, the petitioners were arrested by the respondent police. Therefore, he pleaded to allow the petitioners on bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioners along with other persons forced the victim girl to marry her maternal uncle in the year 2017 and also conducted the marriage. But the victim girl being a minor, at the time of marriage, refused to stay in her matrimonial home and came back to her parents house. Hence the respondent police registered the case in Crime No.979 of 2020 as against the petitioners herein. He further submitted that co-accused persons are still absconding and investigation is pending. Therefore he vehemently opposed to grant bail to the petitioners.

5.Overall consideration of the facts, the nature of accusation, the nature of offence, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioners in the judicial custody, 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 condition, that each of them to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned **Fast Track Court, Dharmapuri**, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) **the petitioners on their release from prison shall report before the respondent police everyday at 10.30 a.m. until further orders.**

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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 petitioner 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
30/12/2020

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 FAST TRACK COURT,
DHARMAPURI.

2 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ERIYUR POLICE STATION,
DHARMAPURI DISTRICT.

CC to M/S.V.SAKKARAPANI Advocate on payment of necessary charges

CRL OP.20494/2020

Date :30/12/2020

MN-31/12/2020

WEB COPY