



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 18/09/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD).No.9950 of 2020

1.Sundarammal
2.Marimuthu
3.Eswari
4.Veerachamy

... Petitioners/Accused Nos.2 to 5

Vs

State Rep.by,
The Inspector of Police,
Varusanadu Police Station,
Theni District.
Crime No.564 of 2020.

... Respondent/Complainant

For Petitioners: Mr.P.Senkuttuarasan,
Advocate.

For Respondent : M/s.S.E.VERONICA VINCENT,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in Crime No.564 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A2 to A5, apprehending arrest at the hands of the respondent police for the offences punishable under sections 6 of POCSO Act & 506(i) of IPC, in Crime No.564 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the victim girl is the step daughter of A1, who is aged about 15 years. A1 said to have sexually assaulted the minor victim for several times, the victim girl informed the same to the petitioners. But the petitioners have also criminally intimidated her. Hence, the complaint has been registered.

3.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.



4.The learned counsel appearing for the petitioners submitted that in this case, the main allegation is only against A1. The first petitioner is the mother of A1 and the second and fourth petitioners are brothers of A1 and third petitioner is the wife of the second petitioner. He further submitted that the POCSO Act has not attract against these petitioners and A1 has already been arrested and remanded to judicial custody. Hence, he prayed for grant of anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the victim girl is the step daughter of A1, who is aged about 15 years. A1 said to have sexually assaulted the victim girl for several times, when the same was informed to the petitioners, they have threatened the victim girl and criminally intimidated her. He would further submit that A1 has already been arrested and remanded to judicial custody.

6.On perusal of statement recorded under Section 164(5) of Cr.P.C, it is seen that the main allegation is only against A1, who said to have sexually assaulted the victim girl for several times. The only allegation against the petitioners is that they have threatened the victim girl and criminally intimidated her. Hence, the POCSO Act has not been attracted against the petitioners.

7.Considering facts and circumstances of the case and also considering the fact that the main allegation is only against A1, who said to have sexually assaulted the victim girl and A1 has already been arrested and remanded to judicial custody, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Theni, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 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]; and;

(f) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

18/09/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE, THENI
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE
VARUSANADU POLICE STATION, THENI DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.9950 of 2020

Date : 18/09/2020

VSD

PK/PN/SAR-1/23.09.2020 : 3P/5C