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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2020

PRESENT

The Hon'ble Mr. Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.12283 of 2020

1. Gurusamy
2. Annakilli
3. Kaliammal
4. Marikutty

... Petitioners/Accused No.2 to 5

Vs

The Inspector of Police,
All Women Police Station
Tirunelveli Town,
Tirunelveli District.
Cr No.11/2020.

... Complainant/Respondent

For Petitioners : M/s.K.Sivabalan, Advocate.

For Respondent : K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No. 11 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 5(1),5 (J)(ii), 6 of the Protection of Child from Sexual Offences Act and Section 9 & 10 of the Prohibition of Child Marriage Act, 2006, in Crime No.11 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first accused and the victim girl aged about 15 years fell in love and their marriage was solemnized by their parents. Hence, the complaint.

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



4. The learned counsel for the petitioners would submit that the petitioners are the second to fifth accused and family members of the first accused. They have not committed any offence as alleged by the prosecution. The first accused was already arrested and remanded to judicial custody.

5. The learned Government Advocate (Criminal Side) submitted that the petitioners are the family members of the first accused and they have arranged marriage between the first accused and the victim girl, due to which, the victim girl got pregnant and delivered a male child. Since the victim girl is aged about 16 years, their marriage become invalid. The first accused was also arrested and remanded to judicial custody.

6. Perusal of the statement of the victim girl recorded under Section 164 Cr.P.C., would reveal that the victim girl and the first accused fell in love. Thereafter, their family members arranged their marriage, due to which the victim girl got pregnant and delivered a male baby. In fact, the victim girl is living with the first accused. While being so, the Social Welfare Officer lodged the complaint.

7. Considering the above facts and circumstances of the case and also considering the fact that the petitioners are the family members of the first accused, this Court is 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 on their appearance before the learned Special Court for POCSO Act Cases, Tirunelveli and on their executing a 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 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/-
03/11/2020

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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 JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUNELVELI TOWN,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.12283 of 2020
Date :03/11/2020

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TE/SMA/SAR-II : 05/11/2020 : 3P/5C