



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/11/2020

PRESENT

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

CRL OP(MD). No.13306 of 2020

1. Mathivanan
2. Manoj Kumar

... Petitioners/Accused No.2 and 4

Vs

State Rep. by
The Inspector of Police,
Eppothumvendran Police Station,
Thoothukudi District
Crime No.92/2020.

... Respondent/Complainant

For Petitioners: Mr.G.Radhakrishnan,
Advocate.

For Respondent : M/s.M.Anantha Devi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For a Bail in Crime No.92 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, A2 and A4 herein were arrested on 19.10.2020 for the alleged offences under Section 5(1) r/w Section 6 r/w Section 17 of POCSO Act, 2012, in Crime No.92 of 2020, on the file of the respondent Police, seek bail.

2.The case of the prosecution is that the first accused fell in love with the victim girl, who is aged about 16 years. Thereafter, they eloped with the help of the petitioners and A1 had sexual relationship with the victim girl. Hence, the present complaint.

3.The learned counsel appearing for the petitioners submitted that the petitioner have been arraigned as A2 and A4. Admittedly, the petitioners are friends of A1 and A1 fell in love with the victim girl. Since the petitioners are friends of A1, they have been



petitioners are no way connected with this elopement. He further submitted that A1 was arrested and subsequently, he was released on bail by the Juvenile Court, since he is a minor. Hence, they seek bail.

4.The learned Government Advocate (Crl. Side) appearing on behalf of the respondent Police submitted that A1 fell in love with the victim girl and on the promise of marriage, A1 had kidnapped the victim girl with the help of the petitioners and had sexual relationship with her. Initially the case was registered under Section 376 of Indian Penal Code, subsequently, it was altered into under Sections 5(1) r/w Section 6 r/w Section 17 of POSCO Act. She further submitted that A1 was arrested and subsequently, he was released on bail, since he is a minor. Insofar as the petitioners are concerned, they helped the elopement of A1 and the victim girl. The learned Government Advocate (Crl.Side) has also produced 164(5) statement of the victim girl.

5.It is seen that totally there are four accused in this case, in which, the petitioners have been arraigned as A2 and A4. A1 fell in love with the victim girl and they eloped somewhere with the help of the petitioners and A1 had sexual relationship with the victim girl. It is also seen that on the complaint lodged by the family members of the victim girl, initially the case was registered under Section 376 of Indian Penal Code, subsequently, it was altered into under Sections 5(1) r/w Section 6 r/w Section 17 of POSCO Act. Now the victim girl was secured by the respondent Police. Therefore, the role played by the petitioners is that they helped the elopement of A1 and the victim girl.

6.Taking note of the above facts and circumstances of the case and the fact that A1 has already been arrested and released on bail and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

7.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, out of which, one shall be a blood related surety, each for a like sum to the satisfaction of the learned PocsO Court, Thoothukudi.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required for interrogation.

<https://hcservices.courts.gov.in/hcservices> petitioners shall not tamper with evidence or witness.



iv) the petitioners shall not abscond during trial.

v) 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].

vi) If the petitioners/accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
24/11/2020

/ TRUE COPY /

/ /2020
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,
POCSO COURT, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
EPPOTHUMVENDRAN POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL JAIL, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13306 of 2020
Date :24/11/2020

VSG
JM/PN/SAR III/24.11.2020/3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>