



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

Date : 04/12/2020

PRESENT

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

CRL OP(MD).No.14048 of 2020

1.James @ Jimreeves Curt James
2.Sowmiya

... Petitioners/Accused Nos.1 & 2

Vs

State rep.by
The Inspector of Police,
Pettai Police Station,
Tirunelveli City.
Crime No.941 of 2020.

...Respondent/Complainant

For Petitioners: Mr.J.Ashok, Advocate.
For Respondent : Ms.M.Ananthadevi,
Government Advocate (Crl.Side)

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

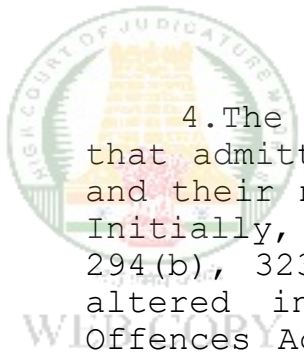
PRAYER :- For Anticipatory Bail in Crime No.941 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 & A2, apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 323, 506(i) IPC and Section 4 of TNPWH Act, in Cr.No.941 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 21.09.2020 due to dispute between the petitioners' family and the defacto complainant's family in respect of switching off the lights, the first accused said to have attacked the defacto complainant and also her daughter aged about 14 years. Further allegation is that he also assaulted the minor victim girl by sexually. Initially the case was registered for the offence under Sections 294(b), 323, 506(i) IPC and Section 4 of TNPWH Act and subsequently altered into Section 8 of POCSO Act 2012.

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



4.The learned counsel appearing for the petitioners submitted that admittedly there was a dispute between the petitioners' family and their neighbours family in respect of switching off the lights. Initially, the case was registered for the offence under Sections 294(b), 323, 506(i) IPC and Section 4 of TNPWH Act and subsequently altered into section 8 of Protection of Children from sexual Offences Act, 2012. Earlier, the petitioners have filed a petition for anticipatory bail in Cr.M.P.No.5182 of 2020 before the learned Principal Sessions Judge, Tirunelveli and they have granted anticipatory bail. Thereafter only after that the defacto complainant improved their case and altered the offence under Section 8 of POCSO Act 2012. Therefore, the petitioners have nothing to do with the case as alleged by the prosecution and seek anticipatory bail.

5.The learned Government Advocate (Crl.Side) appearing for the respondent police has produced the statement given by the victim girl under Section 164 of Cr.P.C and submitted that the petitioners said to have attacked the defacto complainant and also her minor daughter subsequently he also sexually assaulted the minor victim girl. Therefore, the respondent rightly altered the offence under Section 8 of Protection of Children from sexual Offences Act, 2012 and vehemently opposed to grant anticipatory bail.

6.There are totally two accused, in which the petitioners are arrayed as A1 and A2, who are the husband and wife. There was a wordy quarrel between the both families, in which the first accused said to have attacked the defacto complainant namely the minor victim girl mother and thereafter he also assaulted the minor girl on her chest. On perusal of the statement of the 164 Cr.P.C. of the minor victim girl is stated that there are specific allegations as against the first accused in respect of the offence under the POCSO Act, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this Criminal Original Petition is dismissed in respect of the first petitioner.

7.In so far as the second petitioner is concerned, there is no serious allegation as against her. Hence, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

8.Accordingly, the second petitioner/A2 is ordered to be released on bail in the event of arrest or her appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.V, Tirunelveli, on condition that the second petitioner/A2 shall execute a 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:



(a)the second petitioner/A2 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 second petitioner/A2 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;

(c)the second petitioner/A2 shall not tamper with evidence or witness either during investigation or trial;

(d)the second petitioner/A2 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 second petitioner/A2 in accordance with law as if the conditions have been imposed and the second petitioner/A2 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/second petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/12/2020

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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 NO.V, TIRUNELVELI.
 2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.
 3. THE INSPECTOR OF POLICE,
PETTAI POLICE STATION, TIRUNELVELI CITY.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.J.ASHOK, Advocate (SR-7923[I] dated 07/12/2020)

ORDER IN

CRL OP(MD) No.14048 of 2020

Date :04/12/2020