

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.288 of 2021

Joyce

... petitioner

Vs.

State Rep. by

... Respondent

The Inspector of Police,
Perur All Women Police Station,
Coimbatore District - 641 016.
(Crime No.7 of 2020)

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge Bail to the petitioner in the event of her arrest in Crime No.7 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.G.Anbuchezehiyan

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehend arrest at the hands of the respondent police for the offence under Section 6, 17 of POCSO Act r/w 367 of IPC and 75 of the Juvenile Justice (Care and Protection of Children) Act 2105, in Crime No.7 of 2020, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/victim girl is that she is aged 17 years and that she has studied in the home run by the accused till 8th standard. Thereafter, the accused had closed the home and all the students have gone away. Since the defacto complainant was not having parents, the petitioner had permitted the defacto complainant to stay in her house. While so, 16.06.2020, when she was sleeping, the petitioner's husband misbehaved with her and thereafter she had left the home and given a complaint to the Village Administrative Officer and through her, she was taken to the learned Juvenile Judge, where she had given a statement. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would further submit that the petitioner was running a home at Coimbatore, after obtaining necessary permission. Later, due to his financial status, the petitioner was not able to run the home properly. The home had been closed and some of the children were sent back to their parents and others were sent to some other home. Since, the parents of the defacto complainant were not available, the petitioner has taken the defacto complainant to her home and they were taking care of her. He would further submit that the Accused/A1 has already been arrested and released on bail. Hence, he prays for anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner was earlier running a home at Coimbatore and it was closed due to lack of facilities and thereafter, since the defacto complainant did not have her parents to support, she was under her custody from 2014 and that the petitioner's husband had misbehaved with the victim girl on 16.06.2020 and on 17.06.2020 and the complaint was given on 18.06.2020. He would further submit that the statement under Section 164 Cr.P.C. has been recorded from the victim girl. Hence, he opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsel of this case and also considering the fact that the main accused/A1 has already been arrested and released on bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy is made ready, before the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, on condition that the petitioner 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

18/01/2021

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 SPECIAL COURT FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
COIMBATORE.

2 THE INSPECTOR OF POLICE,
PERUR ALL WOMEN POLICE STATION,
COIMBATORE DISTRICT-641 016.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.G.ANBUCHEZHAIYAN Advocate on payment of
necessary charges SR NO. 501

CRL OP.288/2021

Date :18/01/2021

MN-22/01/2021