

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.893 of 2021

1. Muniyandi
2. Susila

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Thiruthuraipoondi Police Station,
Tiruvarur Dt.
(Crime No.350 of 2017)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.350 of 2017 pending investigation on the file of the Respondent.

For Petitioners: Mr.K.C.Karl Marx

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 05.12.2020 for the offence punishable under Section 6 r/w Section 5(1), 5(j)(i), 5(j)(ii), 5(j)(iii), 5(L), 5(q), 17 of Protection of Children from Sexual Offences Act, 2012 and Section 9, 10 of Prohibition of Child Marriage Act, and Sections 315, 365, 366 and 376 of I.P.C., in Crime No.350 of 2017, seek bail.

2. Totally, there are five accused and the parents of A1 are arrayed as A4 and A5. The case of the prosecution is that A1 in this case had love affairs with a minor girl, and he said to have kidnapped her. He has sexually assaulter her against her wish and also tortured her. Based on the complaint given by father of victim girl, the criminal case was registered against the petitioners. The petitioners, being parents of A1 were arrested on 05.12.2020 and they are in custody. Now, the present petition has been filed seeking bail.

3. The learned counsel appearing for the petitioners

would submit that they are only parents of A1 and as per the victim girl statement, absolutely there is no allegation made against the petitioners and the allegation is only against A1. He would submit that now, the A1 was also arrested. He would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and hence, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that A1 in this case has kidnapped a minor girl. She would submit that after the investigation, A1 was arrested and victim girl was also rescued. She would further submit that the victim girl has also given statement under Section 164 of Cr.P.C. and the same was recorded. However, she vehemently opposed to grant bail to the petitioner.

5. Considering the above facts and circumstances and on considering the fact that the petitioners are parents of A1 and the main allegation is against A1 and no allegation is levelled against the petitioners, and the petitioners are in judicial custody from 05.12.2020, this Court is inclined to grant bail to the petitioner in subject to the following conditions:

(a) Accordingly, the petitioners is ordered to be released on bail on his 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 Judicial Magistrate, Thiruthuraipoondi, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioners, on their release from prison, shall report before the respondent police as and when required;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
25/01/2021

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 JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUTHURAIPOONDI POLICE STATION,
TIRUVARUR

5 THE OFFICER INCHARGE,
SUB-JAIL, NANNILAM.

6 THE OFFICER INCHARGE,
SUB-JAIL, TIRUVARUR.

+1 CC to M/S K.C.KARL MARX Advocate on payment of necessary charges SR NO. 827

CRL OP.893/2021

Date :25/01/2021

MN-27/01/2021