

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.1596 of 2020

1. C.Anandan

2. M.Sampath

... Petitioners

Vs.

The State rep. by
The Inspector of Police
W-35, All Women Police Station
Tambaram,
(Crime No.1 of 2020)

....Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.1 of 2020 on the file of the respondent police.

For Petitioner : Mr.V.Raja Saravanan

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

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 7 and 8 of POCSO Act, 2012 in Crime No.1 of 2020, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are said to have involved in sexual offence with the students at "Sri Sadananda Swamigal Ashramam, Sadananthapuram, New Perungalathur, Chenna 600 063. Hence, the present complaint.

3. The learned counsel appearing for the petitioners would submit that the 1st petitioner is working as Secretary in the said Ashram and the second petitioner who is also serving in the said Ashram. It is further submitted that they are 9 orphans who staying in the Ashram, were studying in 6,9,10 and 11th standard in various schools. He would further submit that the defacto complainant, who is a practicing advocate, is said to have filed a false complaint against the petitioners.

4. I heard the learned Additional Public Prosecutor for the respondent Police.

5. In these circumstances, earlier, when the matter came up for hearing, this Court by order dated 13.02.2020 directed the XII Metropolitan Magistrate, Egmore, Chennai, to visit the Ashram and obtain statement from the alleged victims who are under the custody of the protection officer in the Child Welfare Home. Pursuant to the said order, the XII Metropolitan Magistrate, Egmore, Chennai, has recorded the statements of all the alleged victims and also filed a report before this Court. On perusal of the report furnished, it is seen that all the children clearly saying that they are not sexually harassed by the petitioners, however, only the defacto complainant threatened the victims to make out a false complaint against these petitioners. On perusal of the statement recorded by the XII Metropolitan Magistrate, Egmore, Chennai clearly reveals that after following the due process, the statement of the victims were recorded and absolutely there is no allegation of sexual abuse in Sri Sadhanandha Swamigal Ashramam and the children are happy and they were satisfied when they were in the said Ashram.

6. Taking note of the fact that the report of the XII Metropolitan Magistrate, Egmore, Chennai reveals no sexual harassment and considering the statement recorded in respect of all the victims, this Court is inclined to grant bail to the petitioners subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Tambaram, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] 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.

[c] the petitioners shall report before the respondent police as and when required for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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.R. Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

08/01/2021

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,
TAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 XII METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
W-35, ALL WOMEN POLICE STATION
TAMBARAM.

+2 CC to M/S.V.RAJA SARAVANAN Advocate on payment of necessary charges Sr.350

WEB COPY

CRL OP.1596/2020

Date :08/01/2021

RVR 25/01/2021