

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eighth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.3934 of 2021

1 MATHIYAZHAGAN
2 KALPANA

[PETITIONERS / ACCUSED]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
PARANGIPETTAI POLICE STATION,
CUDDALORE DISTRICT.
CRIME NO.801 OF 2020.

[RESPONDENT]

For Petitioner : M/S. S.GOPINATHAN Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

(This Case has been heard through Video Conferencing)

The petitioners arrayed as A3 and A4, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 366 of IPC r/w Section 6 and 17 of POCSO Act 2012, in Crime No.801 of 2020, on the file of the respondent/Police, seek anticipatory bail.

2.The case of the prosecution is that A1 in this case had love affair with the minor girl and kidnapped her and also sexually assaulted her. Based on the complaint given by the defacto complainant, the case has been registered.

3.The learned counsel for the petitioner would submit that the petitioners are innocent persons and they are no way connected with this crime and they have been falsely implicated in this case. He would further submit that A1 had love affair with the minor girl and they have eloped. He would further submit that A1 and the minor girl had stayed in the petitioner's home, they are friends of A1. He would further submit that A1, A2 have been arrested and thereafter they were released on bail. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor would submit that A1 in this case had love affair with the minor girl and kidnapped her and also sexually assaulted her. He would further submit that A1, A2 have been arrested and thereafter they were released on bail. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case and that the co-accused had been arrested and thereafter they were released on bail and the petitioners are friends of A1 and there is no other allegation pending as against the petitioners, this court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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 on which the order copy made ready, before the Special Court (POCSO) -Cuddalore, on condition that the petitioners shall execute a separate 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 this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix his 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 petitioners shall report before the respondent Police as and when required for interrogation,

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

[d] the petitioners 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 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]**.

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

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

-sd/-
08/03/2021

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
(POCSO) CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PARANGIPETTAI POLICE STATION,
CUDDALORE DISTRICT.

+1 CC to M/S. S.GOPINATHAN Advocate on payment of necessary charges SR.NO.2991

CRL OP.3934/2021

Date :08/03/2021

TA-15/03/2021

सत्यमेव जयते

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