

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Crl.OP.No.9480 of 2021

1.Syed Asamadulla
2.Ismail Shareef

... Petitioners

Vs.

State rep. By
The Inspector of Police,
W-16, All Women Police Station,
Puliyanthope, Chennai - 12.

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the accused A-1 and A-2 on bail in the event of arrest in Crime No.4 of 2021 dated 26.03.2021 on the file of the Inspector of Police, W-16, All Women Police Station, Puliyanthope, Chennai.

For Petitioner : Mr.K.V.Ramesh

For Respondent : Mr.A.Damodaran
Government Advocate (Crl.Side)

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 5(I) J (ii), r/w 6 of POCSO Act and Section 9 of the Prohibition of child Marriage Act 2006, in Crime No.4 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the marriage between the petitioner / Accused No.1 with one Thabasum had been arranged by the parents of both the family and the said marriage was solemnised on 02.07.2020. Since, the victim girl was aged about only 16 years at the time of marriage, the defacto complaint, who is the President of India Thouhit Jamath, had given a complaint against the petitioners.

3. The learned counsel appearing for the petitioner submitted that the victim girl's mother had already done two major surgeries

and she was in serious condition and therefore, both the family members had arranged for a marriage between the petitioner and the victim girl. Now, the victim girl is 8 months pregnant and both of them are living happily and hence, prays for anticipatory bail.

4. When this matter was taken up for hearing on 26.05.2021, this Court directed both the 1st petitioner/Accused No.1 and the victim girl shall be present before this Court. As directed by this Court, both the victim girl and the 1st petitioner appeared before this Court and informed this Court that they are living happily and she is 8 months pregnant and requested this court to grant Anticipatory bail.

5. Taking into consideration of the facts and circumstances of this case and also of the fact the both are agreed that they are living happily and the victim girl is now 8 months pregnant, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. In case, in future, after granting anticipatory bail, if the victim girl was neglected by the 1st petitioner, the anticipatory bail granted by this Court shall stand cancelled as per the procedure known to law. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned VII Metropolitan Magistrate, George Town Court, Chennai, on condition that the petitioners 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 petitioners 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 petitioners shall report before the respondent police weekly twice for a period of three weeks and thereafter, as and when required.

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

[d] the petitioner 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.K.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.

-sd/-

27/05/2021

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 METROPOLITAN MAGISTRATE,
NO.VII, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-16, ALL WOMENS POLICE STATION,
PULIYANTHOE, CHENNAI -12.

+1 CC to M/S.K.V.RAMESH Advocate on payment of necessary charges SR.NO.6325

CRL OP.9480/2021

Date :27/05/2021

TA-22/06/2021

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