

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.9887 and 10478 of 2021

Mohan

... Petitioner in Crl.O.P.9887/2021

1.Elumalai

2.Malar

3.Dhanabal

4.Vanitha

... Petitioner in Crl.O.P.10478/2021

Vs.

State by

Inspector of Police,

All Women Police Station,

Gingee

Villupuram District.

(Crime No.11 of 2021)

... Respondent in both Crl.O.Ps.

Common Prayer:

Petitions filed under Section 438 of Cr.P.C., seeking to enlarge the petitioners on bail in the event of their arrest in Crime No.11 of 2021 on the file of Inspector of Police, All Women Police Station, Gingee, Villupuram District.

For Petitioners : Mr.S.Sasikumar

For Respondent : Mr.A.Gopinath in Crl.O.P.9887/2021
Government Advocate (Crl. Side)
Mr.C.E.Pratap in Crl.O.P.10478/2021
Government Advocate (Crl. Side)

C O M M O N O R D E R

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence under Section 366 of I.P.C. and 5(I), 5(j)(ii), 6 of POCSO Act, 2012 and Section 9 of The Child Marriage Restraint Act in Cr.No.11 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The petitioner in CrI.O.P.No.9887 of 2021/ A1 is the husband of the defacto complainant. The petitioners 1 and 2 in CrI.O.P.No.10478 of 2021/ A2 and A3 are the parents of the petitioner in CrI.O.P.No.9887 of 2021 and the petitioners 3 and 4 in CrI.O.P.No.10478 of 2021/ A4 and A5 are the parents of the defacto complainant. Since the defacto complainant is a minor and since she got conceived and gave birth to a child, the case came to be registered.

3.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution. He further submitted that now both the defacto complainant and A1 are living happily and further submitted that since the hospital officials pressurized the defacto complainant to give complaint, she lodged the complaint.

4.The learned Government Advocate (Criminal Side) submitted that investigation reveals that A1 married the defacto complainant with her consent and that they are living together happily.

5.This Court perused the statement given by the defacto complainant under Section 164 of Cr.P.C. and it reveals that both A1 and the defacto complainant loved each other and got married without the consent of their parents and lived together separately. Thereafter, she got conceived and gave birth to a female child. Since she is a minor, the case came to be registered. Hence, this Court is inclined to grant anticipatory bail to the petitioners.

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 of receipt of a copy of this order, before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, on condition that the petitioners shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 Court concerned 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 daily at 10.30 a.m. for a period of two weeks and thereafter 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]; and;

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

-sd/-
23/06/2021

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, VILLUPURAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GINGEE, VILLUPURAM DISTRICT.

+2 CC to M/S.S.SASIKUMAR Advocate on payment of necessary charges
SR.Nos.6773 & 6772

CRL OP.Nos.9887 & 10478/2021

Date :23/06/2021

cs 09/07/2021