

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9953 of 2021

1.Vanitha
2.Saravanan

... Petitioners

Versus

State by rep. By
The Inspector of Police,
Karumangalam Police Station,
Dharmapuri District.
(Crime No.146 of 2021) ... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioners on bail, pending investigation, in connection with the case in Crime No.146 of 2021 on the file of the respondent.

For Petitioners : Mr.M.Karthik

For Respondent : Mr.E.Raj Thilak,
Counsel for Government (Crl.Side)

ORDER

The petitioners/Accused No.2 & 3, who were arrested and remanded to judicial custody on 05.05.2021 for an offence under Sections 363, 366(A), IPC and 3 r/w 4 of and 16 r/w 17 of POCSO Act 2012 in Crime No.146 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there was a love affair between the victim girl and A1. A1 is said to have had physical intercourse with the victim girl aged about 16 years. The petitioners are sister and brother-in-law of A1. An FIR came to be registered against these petitioners on the ground that they gave accommodation to the petitioner and the victim girl.

3. The learned counsel appearing for the petitioners submitted that these petitioners have nothing to do with the alleged offence and they have been falsely implicated in this case. The learned counsel further submitted that these petitioners were arrested and remanded to judicial custody on 05.05.2021 and they have already suffered incarceration for more than 32 days.

4. The learned Additional public Prosecutor submitted that 164 statement has been recorded from the victim girl and she has spoken about her affair with A1 and also the physical intercourse of A1 with the victim girl. These petitioners were made as an accused, based on the confession of A1 and only on the ground that they gave accommodation to A1 and the victim girl.

5. Taking into consideration, the facts and circumstances of the case and also of the fact that these petitioners have already suffered incarceration for more than 32 days and no specific overt act being attributed against these petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions.

(a) the petitioners are ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioners have been confined;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) On releasing, the petitioners shall report before the respondent police, as and when required for interrogation.

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

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

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

(h) 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];

(i) 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/-
07/06/2021

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 FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE OFFICER INCHARGE,
SUB-JAIL, DHARMAPURI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KARUMANGALAM POLICE STATION,
DHARMAPURI DISTRICT.

CC to M/S.C.VASUDEVAN Advocate on payment of necessary charges

CRL OP.9953/2021

Date :07/06/2021

MK:08/06/2021

<https://hcservices.ecourts.gov.in/hcservices/>