



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10150 of 2021

1. Elayanila
2. Vijay

... Petitioners

Vs.

State, represented by
The Inspector of Police,
All Women Police Station,
Salem Town.
(Crime No.42 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 438 of Cr.P.C prayed to enlarge the petitioner on bail in the event of his arrest at the hands of the respondent pending investigation in Crime No.42 of 2021 on the file of the respondent police.

For Petitioners: Mr.S.Senthilvel

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

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 363, 366A, 324, 51 r/w, 15 and 16 of POCSO Act and Section 9 of Child Marriage Act in Crime No.42 of 2021 seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant had two daughters. The 2nd petitioner/son in law of the defacto complainant had requested her for arrangement of her younger daughter's marriage with one Moorthi, for which, she had refused. On 18.05.2021 at about 01.00 p.m her younger daughter left the home to purchase vegetables and thereafter she did not return home, pursuant to which, the defacto complainant searched for her daughter, but she was not able to trace her. Hence, the case was registered against the petitioners on the complaint of the defacto complainant .

3.The learned counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He



further submits that the first petitioner is the own daughter of the defacto complainant and sister of the victim girl, the second petitioner is the husband of the first petitioner and son-in-law of the defacto complainant. He further submits that Al/Moorthy was arrested and the victim girl was also secured and she is in custody of the defacto complainant. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) submits that a 'girl missing case' was registered against the petitioners . He would further submit that the victim is a minor girl aged about 16 years and a statement has also been recorded u/s 164 Cr.P.C. from the victim girl.

5. Heard both sides and perused the records including 164 statement recorded from the victim girl.

6. On perusal of the statement of the victim recorded u/s 164 Cr.P.C., it is seen that there are no serious allegations against the petitioners. Considering the facts and circumstances of the case and the gravity of the offence alleged against the petitioners, 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 Additional Mahila Court, Salem on condition that each of the petitioners shall execute a bond for a sum of Rs.10,000/- each (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 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/-

07/07/2021

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 ADDITIONAL MAHILA COURT,
SALEM

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SALEM TOWN.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. S.SENTHILVEL Advocate on payment of necessary
charges Sr.7135

CRL OP.10150/2021

Date :07/07/2021

RVR 19/07/2021