

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11150 of 2021

1. Kaliya Perumal
2. Iyappan

... Petitioners

Vs.

The State Represent by
The Inspector of Police,
Chidambaram Police Station,
Cuddalore District.
Cr.No.358/2019

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail in connection with the case in Cr.No.358 of 2019 pending investigation on the file of the respondent Police.

For Petitioners : Mr.Mohammed Aasif

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

ORDER

The petitioners, who were arrested on 20.04.2021 and remanded to judicial custody for the offences under Section 354(D), 366, 366(A) of IPC and Sections 6,17,5(1) of POCSO Act, 2012, and Sections 9 and 11 of Child Marriage Restraint Act, 1928 in Cr.No.358 of 2019, on the file of the respondent police, seek bail.

2. The case of the prosecution is that initially, the petitioners was granted on bail by the court below in SC. No.33 of 2020. Later, the petitioners were not regularly appear before the Court. Hence, non-bailable warrant was issued against the petitioners on 15.04.2021 and they were arrested on 20.04.2021.

3. The learned counsel for the petitioners submitted that due to the pandemic, the petitioners were not appear before the trial Court on 15.04.2021. Hence, NBW was issued against them and they were arrested on 20.04.2021. Hence prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioners were not regularly appear before the trial Court and he further submitted that the petitioners have threatened the victim girl not to depose anything before the Court. Hence, he vehemently opposed to grant bail to the petitioners.

5. Considering the period of incarceration suffered by the petitioners and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the petitioners shall execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent, Central Prison, Cuddalore, in which the petitioners are confined and on such execution the petitioners shall be released from prison;

(b) Within a period of four weeks after the release, the petitioners shall execute separate bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore;.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioners are permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(d) 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;

(e) the petitioners shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

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

(h) 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;

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

-sd/-
29/06/2021

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,
CUDDALORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
CUDDALORE.

3 THE INSPECTOR OF POLICE,
CHIDAMBARAM TOWN POLICE STATION,
CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. MOHAMMED AASIF Advocate on payment of necessary charges

CRL OP.11150/2021

Date :29/06/2021

MK:30/06/2021

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