



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twentieth day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.16355 of 2021

R.AMUTHA

[PETITIONER / ACCUSED]

Vs

STATE REP. BY
STATION HOUSE OFFICER,
AVINANKUDI POLICE STATION,
CUDDALORE DISTRICT.
(CRIME NO. 59 OF 2021)

[RESPONDENT]

For Petitioner : M/S. KANNAN K. Advocate

For Respondent : MR.C.E.PRATAP, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offence under Sections 366(A) of IPC altered into section 344 of IPC and 5 (1), 6 of POCSO Act 2012 r/w Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.59 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the victim girl is a minor and she went missing. Hence the defacto complainant / mother of victim girl searched her daughter/Victim girl all over and was unable to find the victim girl. Thereafter, she came to know that one Rajavel kidnapped her daughter/victim girl. Hence the defacto complainant went to Rajavel's house and questioned Rajavel's mother and father and there was no response from them. Hence, the defacto complaint lodged a case before the respondent police. On further investigation, it was found that prior to the date of occurrence, the defacto complainant solemnized the victim girl's marriage to her relative's son. Hence the law enforcing agency registered the case against the petitioner and the defacto complainant was arrayed as an accused.



3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. He also mentioned that the victim girl on her own volition eloped with the said Rajavel and the marriage was held in Virudhachalam Periya Kovil. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Government Advocate submitted that the statement of the victim girl has been recorded under Section 164(5) Cr.P.C. and fairly conceded that there is no allegation against the petitioner. However, he opposed to grant anticipatory bail to the petitioner

5.A perusal of the statement of the victim under Section 164(5) Cr.P.C reveals that there is no serious allegation made against the petitioner and the name of the petitioner was not even mentioned in the said 164 statement by the victim girl . In such circumstances this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:-

(a) Accordingly, the petitioner is 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 Special Court for POCSO Act, Cuddalore, Cuddalore District on condition that the petitioner 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 and on further condition that:

(b)the petitioner 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;

(c)the petitioner shall report before the respondent police as and when required for interrogation;

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e)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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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;



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

WEB COPY

-sd/-
20/09/2021

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 SPECIAL COURT FOR POCSO ACT,
CUDDALORE, CUDDALORE DISTRICT.

2 THE STATION HOUSE OFFICER,
AVINANKUDI POLICE STATION,
CUDDALORE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. KANNAN K. Advocate on payment of necessary charges

SR.NO.10397

CRL OP.16355/2021

Date :20/09/2021

CSK 28/09/2021