

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.18237 of 2020

AND CRL.MP.NO.8175 OF 2020

AND CRL.MP.NO.319 OF 2021

Devi

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
W-14-All Women Police Station,
Thiruvottiyur,
Chennai-600 019.
Crime No. 5 of 2020

... Respondent

V.SWETHA

... PETITIONER / INTERVENOR /
DEFACTO-COMPLAINANT
IN CRL.MP.NO.8175 OF 2020
IN CRL.OP.NO.18237 OF 2020

S.VENKATESAN

... PETITIONER / FATHER MINOR
DEFACTO COMPLAINANT
IN CRL.MP.NO.319 OF 2021
IN CRL.OP.NO.18237 OF 2020

[Ordered as per order of this Court dated 08/02/2021 made in
CRL.MP.NOS.8175 OF 2020 & 319 OF 2021 IN CRL.OP.NO.18237 OF 2020]

Prayer: Criminal Original Petition filed under Section 438 of
Criminal Procedure Code, praying to enlarge the petitioner on bail
in the event of her arrest in Crime No.5 of 2020 pending
investigation on the file of the respondent police.

For Petitioner : Mr.J.Saravana Vel

For Interveners : Mr.V.Kannadasan
and
Mr.V.Vijayashankar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the
respondent police for the alleged offences under Section 11(1) R/W 12

and 17 of POCSO Act, 2012, in Crime No.5 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. There are totally two accused in this case. The de facto complainant is the daughter of the petitioner, who is aged 16 years old, a school going girl. The allegation is that the petitioner was having illicit intimacy with A2 and also compelled the de facto complainant to have sexual relationship with A2, when she refused to do so, the petitioner along with A2 abused her and criminally intimidated her. Hence, the complaint.

3. Mr.J.Saravana Vel, learned counsel for the petitioner would submit that the petitioner is innocent and she has been falsely implicated in this case. He would submit that there is a civil dispute between the petitioner and her father-in-law and that the father-in-law of the petitioner instigated the de facto complainant/daughter of the petitioner to give a false complaint against her. Hence, he prays to grant anticipatory bail to the petitioner.

4. Mr.E.Kannadasan, learned counsel for the victim girl would submit that the victim girl is school going girl and that the mother of the victim/petitioner leading a immoral life and she compelled the victim to satisfy A2, when she refused, the petitioner criminally intimidate her along with A2, now the victim is residing with her grand parents.

5. Mr.V.Vijayashankar, learned counsel for husband of the petitioner would submit that due to civil dispute, a false complaint has been given.

6. Earlier, when the matter was taken up for hearing, Mr.J.Saravana Vel, learned counsel for petitioner raised apprehension regarding the safety of the minor girl in the hands of her grandparents. Hence, this Court directed the Additional Deputy Commissioner of Police, Crime Against Women and Children (West), Greater Chennai Police, Vepery, Chennai to conduct enquiry as to whether the victim is safely placed in the hands of her grandparents. The Additional Deputy Commissioner of Police also examined the victim girl, her brother and grandparents and stated that the victim girl is staying with the grandparents and she is very much safe in their hands.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner, being the mother of the de facto complainant, forced the victim to satisfy A2 . Hence, he opposed to grant anticipatory bail to the petitioner.

7. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels and the fact that the children are now safely placed in the hands of their grandparents, 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 her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Mahila Court Thiruvallur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] 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.

[c] the petitioner shall report before the respondent police every day at 10.30.a.m. until further orders. The petitioner shall stay away from the victim girl and shall not visit the in-laws' house.

[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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

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-sd/-
08/02/2021

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,
MAHILA COURT, THIRUVALLUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W14-ALL WOMEN POLICE STATION,
THIRUVANMIYUR, CHENNAI-600 019.

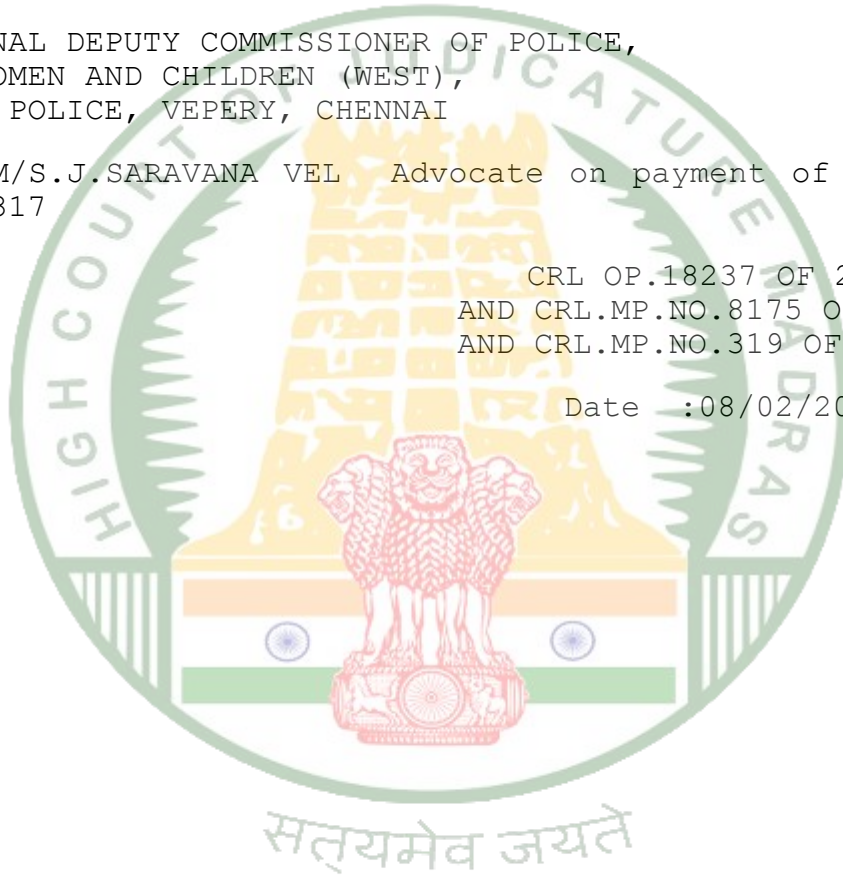
4 THE ADDITIONAL DEPUTY COMMISSIONER OF POLICE,
CRIME AGAINST WOMEN AND CHILDREN (WEST),
GREATER CHENNAI POLICE, VEPERY, CHENNAI

+1CC to M/S.J.SARAVANA VEL Advocate on payment of necessary
charges SR NO.1317

CRL OP.18237 OF 2020
AND CRL.MP.NO.8175 OF 2020
AND CRL.MP.NO.319 OF 2021

Date :08/02/2021

MK:11/02/2021



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