

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.18546 of 2020

1.G.Muthammal
2.S.Lakshmi

... Petitioners

Vs.

The Inspector of Police
Erumapatty Police Station,
Namakkal.
(Crime No.46 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on Bail in the event of their arrest or surrender in Crime No.46 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.M.Aadhithyan

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 366 of IPC r/w Section 6, 5 (1) of POCSO Act and Section 9 of the Prohibition of Child Marriage Act, in Crime No.46 of 2020, seek anticipatory bail.

2. The case of the prosecution is that, A1, by name Manikandan is a married person and he was living with his wife. The victim girl, who is aged about 17 years and the said Manikandan fell in love with her, subsequently, A1 married the minor girl. Hence, the present complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioners are no way connected with the said offence. It is further submitted that the petitioners are willing to comply with the conditions as this Court may impose. Hence, he seeks for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would vehemently oppose to enlarge the petitioners on bail on the ground that based on the complaint lodged by the defacto complainant, a case was registered as girl missing and subsequently it was altered to Section 366 of IPC r/w.6, 5(1) r/w.17 of POCSO Act, Section 9 of the Prohibition of Child Marriage Act. It is also further submitted that A1 was arrested.

5. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant bail to the petitioners subject to the following conditions:

a) 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 Judicial Magistrate-I, Mahila Court, Namakkal, on condition that the petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 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].

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

-sd/-
06/01/2021

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 JUDICIAL MAGISTRATE NO.I,
MAHILA COURT, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERUMAPATTY POLICE STATION,
NAMAKKAL DISTRICT.

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

CRL OP.18546/2020

Date :06/01/2021

MK:20/01/2021

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