



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.19752 and 19758 of 2021

Annamalai

... Petitioner
(in Crl.OP.No.19752 /2021)

Vs.

Panchamoorthi

... Petitioner
(in Crl.OP.No.19758/2021)

State rep by
The Inspector of Police,
Kadathur Police Station,
Erode District.
(Crime No.260 of 2021)

... Respondent
(in both Crl.OPs)

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 Crime No.260 of 2021 pending on the file of the respondent herein for the offences punishable under Sections 366 IPC and Section 6 POCSO Act and Sections 9 and 10 of Child Marriage Act.

Crl.OP.Nos. 19752 and 19758 of 2021

For Petitioners : Mr.R.Balachanderan

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

COMMON ORDER

The petitioners who were arrested on 05.09.2021 and remanded to judicial custody for the offences under Sections 366 IPC r/w Section 6 the Protection of Children from Sexual Offences Act, 2012 and Sections 9 and 10 of Child Marriage Act,2006 in Crime No.260 of 2021 on the file of the respondent police, seek bail.



2.The case of the prosecution is that the petitioner in CrI.O.P.No.19758 of 2021 who is A4 is the uncle of the petitioner in CrI.O.P.No. 19752 of 2021, who is A1 herein. It is alleged that the A4 along with other accused had performed the marriage of the victim minor girl, who is aged about 17 years with A1, and taking advantage of the same, A1 had committed sexual assault on the victim girl. Hence, the complaint.

3.The learned counsel for the petitioners submits that the petitioners are an innocent persons and they have no way connected with the alleged offences and they have been falsely implicated in this case. In fact, the marriage was performed by the elders of the family. Thereafter, the victim minor girl had refused to live with her husband. He further submits that the petitioners are remanded to custody and suffering incarceration from 05.09.2021. Hence he prays for grant of bail to the petitioners.

4. The learned Government Advocate (CrI.Side) submitted that the statement under Section 164 Cr.P.C has been recorded, in which, the victim girl had stated that the grand mother of the victim girl had arranged for the marriage with A1 but the victim girl does not want to lead a married life with A1.. He further submits that there is no previous cases against the petitioners. Hence, the learned Government Advocate has no serious objection to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and considering the submissions made the counsel on either side and the 164 statement also reveals that there is no serious allegations have been made against the petitioners and further considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail on their executing separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Court, Magalir Needhi Mandram, (Fast Track Mahila Court), Erode and on further condition that:

(a)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;

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

(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/-

25/10/2021

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 COURT,
MAGALIR NEEDHI MANDRAM,
(FAST TRACK MAHILA COURT), ERODE.

2 THE INSPECTOR OF POLICE,
KADATHUR POLICE STATION,
ERODE DISTRICT.

3 THE SUPERINTENDENT,
COIMBATORE CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to Mr.R.Balachandran Advocate on payment of necessary charges SR.NOS.11693 & 11692

CRL OP.19752 & 19758/2021

Date :25/10/2021

JPA 26/10/2021