



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

[Crl.O.P.No.24811](#) of 2021

1.K.Malliga
2.V.Elumalai

...Petitioners

Versus

The State rep by
The Inspector of Police
Polur All Women Police Station,
Polur Taluk,
Thiruvannamalai District.
(Crime No.16 of 2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of their arrest in Crime No.16 of 2021 pending investigation on the file of the respondent police.

For Petitioners : [Mr.S.B.Viswanathan](#)

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 376(2)(n) of IPC r/w Sections 5(I) & 6 of the Protection of Children from Sexual Offences Act and Section 9 of the Child Marriage Act, in Crime No.16 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 27.08.2021, the marriage between the first accused and the minor victim girl was solemnised by parents of both of them. Further, the first accused had committed penetrative sexual assault on the minor victim girl with her consent. Based on the complaint was given by the Social Welfare Officer, a case has been registered.



3.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the petitioners are the mother and uncle of the first accused. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor submitted that the statement under Section 164 of Cr.P.C has not been recorded. However, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case and also the fact that there is no previous case pending against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.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's Court, Polur, Thiruvannamalai District, on condition that the petitioners shall execute a separate 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:

(a) if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioners 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 first petitioner shall report before the respondent police as and when required for interrogation and the second petitioner shall report before the respondent police on every Saturday 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]*; and;

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

-sd/-

23/12/2021

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,
POLUR, THIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
POLUR ALL WOMEN POLICE STATION,
POLUR TALUK, THIRUVANNAMALAI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.S.B.VISWANATHAN Advocate on payment of necessary charges SR.NO.15585

CRL OP.24811/2021

Date :23/12/2021

CSK 03/01/2022