



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

CORAM :

THE HON'BLE MR. JUSTICE B. PUGALENDHI

Cr1.O.P.No.25867 of 2021

1.Murugan
2.Meena
3.Iseelan

... Petitioners

Vs.

The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District
Crime No.38 of 2021.

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, 1973, praying to enlarge the petitioners on bail in the event of their arrest by the Respondent Police in the case pending investigation in Crime No.38 of 2021, pending on the file of the Respondent police.

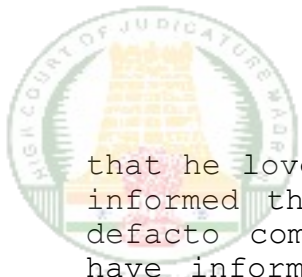
For Petitioners : Ms.R.Thamaraiselvan

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 5(1) r/w 6 r/w 17 of POCSO Act, in Crime No.38 of 2021, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a divorcee and she is running a textile shop in the name of Vaishnav Fashions at no.67K, Suguna Nagar, Kavery Complex, Nallampalayam Road, Coimbatore for the past two years and her daughter namely, Vaishnav, who is aged 16 years, studying eleventh standard in Ammeniyammal High School, used to come to the shop and look after the shop during free hours. Whiles, near her shop, the first petitioner is running a shop in the name of the Auto World and the first petitioner has two sons viz., Praveen, the first accused and the third petitioner in this case and that the first accused used to speak with the defacto complainant's daughter and informed her



that he loves her daughter and the defacto complainant's daughter has informed the same to the defacto complainant. Thereafter, when the defacto complainant asked about the same to the petitioners, they have informed that they will see that this will not happen again. Later, the petitioners and the first accused had convinced the defacto complainant's daughter that the first accused wants to marry her and for that, the defacto complainant's daughter said that she loves Praveen, and thereafter, he had sexual intercourse with the defacto complainant's daughter on several times in several places and also taken photos to the extent and thereafter, by showing the photographs, the first accused has received cash on several occasions from the defacto complainant's daughter to the tune of Rs.6,00,000/-. After coming to know this, the defacto complainant has given a complaint before the respondent police and based on the complaint, the petitioners were called for an enquiry and in the enquiry, the petitioners had given Rs.6,00,000/- to the defacto complainant and thereby, the complaint was closed. Thereafter, on 10.11.2020 at about afternoon 12.00 pm, with the help of the petitioners, the first accused forcibly had sexual intercourse with the defacto complainant's daughter and thereafter, the defacto complainant daughter informed the same to the defacto complainant on 22.12.2021, and thereby, the present complaint has been lodged before the respondent police.

3. The learned counsel for the petitioners submits that the petitioners are no way connected with the alleged offence and this case has been foisted in order to extract money. He further submit that the petitioners are father, mother and brother respectively of the first accused Praveen and that the first and the second petitioners are running a shop in Coimbatore Gandhipuram market and are selling banana leaves and the third petitioner has completed B Tech, MBA and he is working as Senior Customer Relationship Officer at JSW paints, R.S.Puram Coimbatore, and the Auto World shop is run by the said Praveen Kumar and also the petitioner have no connection with the case and the shop run by the first accused. He further submit that the defacto complainant is running a shop next to the shop of the first accused and the defacto complainant's shop does not have swiping machine and Google pay, so whenever the customer comes, the defacto complainant and his daughter used to come to the shop of the first accused and use the facilities and for that, he used to return the money. Whiles, the defacto complainant has given a false complaint before the respondent police on 30.11.2021 as if the defacto complainant's daughter has given money to the tune of Rs.6,00,000/- to the first accused for purchasing vehicle and thereby, cheated the defacto complainant's daughter and based on the complaint, the petitioners and the first accused were called for enquiry under the guise of threat that they will give POCSO complaint and received Rs.6,00,000/- from the petitioners family. Thereafter, the petitioners and the first accused- Praveen Kumar warned the defacto complainant and her daughter not to come to his shop.



Thereafter, on 21.12.2021, the defacto complainant has given a false complaint before the respondent police as if the first accused had threatened the defacto complainant's daughter and had sexual intercourse and based on the complaint, the first accused and the petitioners were called for enquiry and in the enquiry, the defacto complainant and her daughter had demanded Rs.10,00,000/- from the petitioners and thereby, knowing the ill mind of the defacto complainant, the respondent police sent them after enquiry and warned the defacto complainant and her daughter. Thereafter, the defacto complainant and her daughter had filed a complaint before the POCSO Court, Coimbatore and thereafter, the present case has been registered. Thereafter, the first accused has given a complaint before the respondent police against the false complaint given on him and thereafter, sent a representation through speed post to the Superintendent of Police, Coimbatore to take action against the defacto complainant and her daughter. Hence, he prayed to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submits that the petitioners are father, mother and brother respectively of the first accused and all the four accused have received a sum of Rs.6,00,000/- and jewels from the daughter of the de-facto complainant and thereby, cheated the victim girl. Hence, she opposed to grant anticipatory bail to the petitioners.

5. This Court perused the First Information Report and there is no specific allegation made out against these petitioners.

6. Considering the fact that the petitioners are accused nos.2 to 4 and the accused no.1 is the main accused, who is having some affair with the victim girl and also considering the role of the petitioners, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the Criminal Original Petition is allowed. 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 Sessions Judge, Special Court to try the cases under POCSO Act, Coimbatore, on condition that of the petitioners shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.



[b]the petitioners shall report before respondent police daily at 10.30 a.m. until further orders.

[c]the petitioners shall not tamper with the 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 are 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]**.

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

-sd/-
29/12/2021

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 SESSIONS JUDGE,
SPECIAL COURT TO TRY THE CASES UNDER POCSO ACT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THUDIYALUR,
COIMBATORE DISTRICT.

+1 CC to M/S.R.THAMARAISELVAN Advocate on payment of necessary charges SR.NO.15653

CRL OP.25867/2021

Date :29/12/2021

TA-30/12/2021