

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.25891 of 2021

1.Jayakumar
2.Rajalakshmi

.. Petitioners

Vs.

State represented by
Inspector of Police,
AWPS -Sooramangalam
Salem City,
Salem.
Crime No.49 of 2021

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police in Cr.No.49 of 2021 on the file of the respondent police.

For Petitioners : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 9(i) (n), (u) R/W 10 POCSO ACT 2012 and 506(i) IPC, in Crime Number 49 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioners are arrayed as A1 and A2, who are the parents of the victim girl. The first petitioner is the second husband of the second petitioner. The victim girl, while she was in the custody of these petitioners, she was subjected to sexual assault by her step father/A1. The second petitioner/mother was least bothered about the same and further she did not prevent the first petitioner to commit the crime. Hence, the

victim girl made a telephonic call to Salem Child Line 1089, based on the complaint, the respondent police registered a case against the petitioners.

3. The learned counsel appearing for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submits that A1 is employed as a Assistant Director of Agricultural Department and A2 is a house wife. He further submitted that the victim girl aged about 16 years, is having an affair with one Suriya and the same was objected by the petitioners and it is also been admitted by the Victim girl in her 164 statement. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submits that the investigation almost completed and victim girl is under the safer custody of her biological father. He further submitted that statement of the victim girl under section 164Cr.P.C has been recorded. However, he opposed for grant of anticipatory bail to the petitioner.

5. On perusal of the 164 statement of the Victim girl reveals that while her mother and A1 are in live-in relationship, at that time A1/step father had sexually abused her. According to her, when she reported the same to A2/mother, she did not taken any steps to prevent the same.

6.Considering the facts and circumstances of the case and also considering that the first petitioner is employed in the Government Department and second petitioner is the mother of the victim girl, if they granted anticipatory bail, they will not tamper the evidence, hence this Court is inclined to grant anticipatory bail to the petitioners with a condition that A1 should not have any communication with the victim girl.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned POCSO Special Court Salem Exclusively Trial for POCSO Act on condition that the petitioners shall execute a 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] 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;

[b] the first petitioner shall report before the respondent police on every Friday at 10.30.a.m., and the second petitioner shall report before the respondent police as and when required;

[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 has been imposed and the petitioner is 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/-
27/01/2022

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 POCSO SPECIAL COURT SALEM
EXCLUSIVELY TRIAL FOR POCSO ACT.

2 THE INSPECTOR OF POLICE,
AWPS SOORAMANGALAM,
SALEM CITY, SALEM DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.C.PAUL KANAGARAJ Advocate on payment of necessary charges SR.NO.1325

CRL OP.25891/2021

Date :27/01/2022

INBA~31/01/2022