



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01.09.2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD)No.1467 of 2021

- 1.Perumal
- 2.Andivel @ Pappoon Andivel
- 3.Thangavel
- 4.Pomminaicker
S/o.Thambanaicker
- 5.Ramasamy
- 6.Thangapandi
- 7.Pethakkal
- 8.Pomminaicker
S/o.Chinnamanaicker
- 9.Gopi
- 10.Pommakkal
- 11.Saroja
- 12.Paunthai

... Petitioners/Accused

Vs

State rep by
The Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
(Cr.No.57/2021)

... Respondent/Complainant

M.Thangavel ... Petitioner/Intervener/Defacto Complainant
in CRL MP(MD).1209 of 2021



For Petitioners : Balamurugapandi.D, Advocate.

For Respondent : Mr.T.Senthilkumar
Government Advocate (Crl.Side)

For Intervenor : Mr.Muthusamundeeswaran.V, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 57 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 147, 447, 323 and 506(ii) IPC and Sections 3(b) and 4 of the Protection of Children from Sexual Offences Act, in Crime No.57 of 2021, seek anticipatory bail.

2.The case of the prosecution is that one Thangavel lodged a complaint before the Vadamadurai Police Station that his sister one Shanthi married one Pandi and they are having two daughters and a son. The first daughter married in the month of February 2020 and the second daughter / the victim, aged about 14 years is studying 9th standard and residing with them. On 20.01.2021 at early hours, the petitioners 1 and 2 entered into the *defacto* complainant's sister's house, misbehaved with the victim and also attempted to rape her, when she was asleep. On this conduct of the accused, the victim woke up and raised alarm. When her mother Shanthi came to rescue of the victim, the second petitioner assaulted and molested her. To escape from petitioners 1 and 2, the victim, her mother and her brother assaulted the accused with fire woods. At that time, the other accused/ petitioners 3 to 12 also entered into the house, used filthy words and also attacked the victim and her mother.

3.The learned Counsel for the petitioners submits that there is a sequence of events on the disputes between the petitioner's family and the complainant's family. Apart from the criminal cases, civil suits are also pending before the Courts concerned. While so on 17.01.2021 and 21.01.2021, the *defacto* complainant and his family members attacked the petitioners 3, 7, 9, 10 and 11 and in this regard a case in Crime Nos.45 of 2021 and 54 of 2021 are pending against the complainant's party. As a counter complaint and in order to escape from the offence committed by the complainant's family, this false case is foisted as against the petitioners on the advice of the *defacto* complainant.

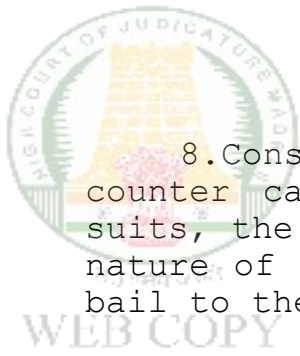


4.The learned Government Advocate (Crl Side) appearing for the respondent police submits that the victim in this case is aged about 15 years. After registration of the case, they have referred the victim for medical examination and have also recorded statement under Section 164 (5) CrPC. He further submits that 10 witnesses have been examined and in the victim's statement recorded before the learned Judicial Magistrate, she has narrated the occurrence.

5.The *defacto* complainant has filed an application for intervening and also submitted that his brother-in-law one Pandi was continuously tortured by the accused party to grab his lands. He would further submit that three months prior to the occurrence, the first petitioner along with ninth petitioner took video of the victim girl. In this regard, the victim's father one Pandi filed a writ petition before this Court in W.P(MD)No.17652 of 2020 and the same was ordered on 04.12.2020. While being so, on 17.01.2018, the first petitioner attacked one Thangapandian and caused injuries on his forehead and the complaint of the *defacto* complainant was taken on file and a case was registered in Crime No.45 of 2021. Apart from Thangapandian, in that case the father of the victim has also been made as accused. By registering a false complaint as against the victim's father and keeping him away, the accused committed the offence. The learned Counsel also relied on the pendency of the previous criminal cases and the civil suits.

6.Admittedly there are sequence of disputes pending between the parties and the criminal cases are pending in Crime Nos.1 of 2018 and 45 of 2021, 54 of 2021 and 57 of 2021. Apart from the same, the first petitioner has filed a suit in O.S.No.106 of 2019 before the District Munsif, Oddanchathiram and Bommanasamy and two others filed a suit in O.S.No.143 of 2020 on the file of the Additional District Munsif, Dindigul. Two days prior to the occurrence, it appears that an incident has taken place, wherein some of the petitioners have sustained injuries. At the instance of the petitioners 1 and 2, a case has been registered as against the complainant's party. As a counter complainant, for the alleged occurrence said to have taken place at the early hours on 20.01.2021, the complaint was lodged on 23.01.2021 at 3.00pm that too through the *defacto* complainant, who is paternal uncle of the victim.

7.The Inspector of Police, Vadamadurai Police Station has filed a status report that ten witnesses have been examined. The victim was also subjected for medical examination and according to the Doctor, the hymen was not intact and there was no evidence of injury. The victim was also produced before the learned Judicial Magistrate, Additional Mahila Court, Dindigul and her statement was also recorded under Section 164(5) CrPC.



8.Considering the facts and circumstances of the case, the counter cases between the parties and the pendency of the civil suits, the manner in which, these accused have been roped in and the nature of allegations, this Court is inclined to grant anticipatory bail to the petitioners.

9.Accordingly, this criminal original petition is allowed and 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 District Munsif cum Judicial Magistrate, Vedasanthur, Dindigul District on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with one surety for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners and the surety 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 as and when required.

[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 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]**.

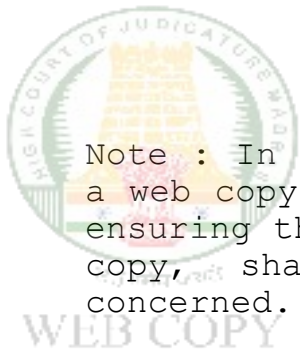
[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
01/09/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Munsif cum Judicial Magistrate,
Vedasanthur.
- 2.Do-Through The Chief Judicial Magistrate,
Dindigul.
- 3.The Inspector of Police,
Vadamadurai Police Station,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-5824[I] dated 01/09/2021)

ORDER IN
CRL OP(MD)No.1467 of 2021
Date : 01.09.2021

TR/JC/SAR-I(08.09.2021) 5P 6C