



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/02/2021

PRESENT

The Hon'ble Mr. Justice M.NIRMAL KUMAR

CRL OP(MD). No.2019 of 2021

1. T.Velraj
2. Thambiraj
3. T.Sivagami
4. Mariyappan
5. M.Anbuselvi

... Petitioners/Accused
Rank 1 to 5

Vs

The State Rep. by
The Inspector of Police,
All Women Police Station,
Sankarankovil,
Tenkasi District.
(Crime No.01/2021).

... Respondent/Complainant

For Petitioners : Ganeshkamu.M,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

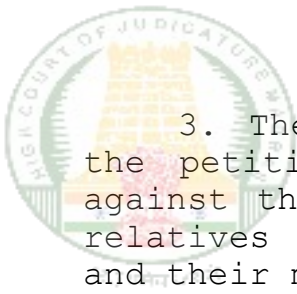
PRAYER :-

For Anticipatory Bail in Crime No.01/2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 to A5, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 376 of IPC and Sections 5(n), 5(L), 17 of POSCO Act and Sections 9,10,11 of Child Marriage Act seek anticipatory bail.

2. The case of the prosecution is that the first petitioner got married the minor victim girl. Based on the complaint given by the social welfare Officer the present case has been registered. Hence the complaint.



3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. He would also submit that the petitioners are close relatives and the victim was also living with the first petitioner and their marriage was also now solemnized.

WEB COPY

4. The learned Government Advocate (Crl. Side) would submit that the first petitioner is the husband of the victim second and third petitioners are the parents of A1, fourth and fifth petitioners are the parents of the victim. He would also submit that both the first petitioner and the victim loved each other and they had sexual intercourse and hence both the family decided to marry the victim with the first petitioner herein.

5. It is seen that the first petitioner is maternal uncle son of the victim girl and both of them loved each other which was objected by the parents of the victim. Thereafter the victim attempted for suicide since she would be separated from her lover. Coming to know the same both the families arranged for marriage on 17.01.2021. On hearing the same, the social welfare officer had enquired the victim and she has stated that she and the first petitioner had sexual relationship even prior to marriage. These facts are seen from the statement of the victim recorded under Section 164 of Cr.P.C. Further the victim has no birth certificate and parents of the victim are uneducated and the school authorities on their own had registered the date of birth in the register, which is not correct.

6. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Sivagiri, Tenkasi District on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to 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 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 as and when required for interrogation.

(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/-
24/02/2021

/ TRUE COPY /

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

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 JUDICIAL MAGISTRATE, SIVAGIRI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARANKOVIL,
TENKASI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to Mr.M.GANESH KAMU, Advocate (SR-1514[I] dated 26/02/2021)

ORDER IN
CRL OP(MD) No.2019 of 2021
Date : 24/02/2021