



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD)No.4343 of 2021

1.Nellaiappan

2.Usha Devi

... Petitioners/Accused No.4 & 5

Vs

State rep.by its.,
The Inspector of Police,
All Women Police Station,
Tirunelveli Town,
Tirunelveli District.
Crime No. 2 of 2021

... Respondent/Complainant

For Petitioner : Mr.J.David Ganesan,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.2 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 offences punishable under Sections 5(i), 5(j)(ii) and 6 of POCSO Act, 2012 and Sections 9 and 10 of the Child marriage Restraint Act, 1929 in Crime No.2 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners and other accused were said to have conducted the marriage of the minor girl with A1 and out of the wed-lock, the minor girl delivered a male baby. On complaint given by the Social Welfare Officer, the present case has been registered. The petitioners herein are the parents of the minor girl.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not

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committed any offence as alleged by the prosecution and they have been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.Side), appearing for the respondent police submitted that investigation is pending.

5.It is seen that A1 was arrested and he is still in custody. As far as these petitioners are concerned, they are parents of the minor girl. It is also seen that the parents of the victim are un-educated and the age recorded by the hospital authorities was not informed by the victim. According to the parents of the victim, she is major. Now the girl gave birth to the child on 12.01.2021 and nobody is there to take care of them.

6.In view of the above, 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 two weeks from the date of receipt of a copy of this order, before the learned Special Sessions Judge, POCSO Special Court, Tirunelveli, 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 appear before the respondent Police daily 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/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
22/03/2021

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/ /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 SPECIAL SESSIONS JUDGE,
POCSO SPECIAL COURT, TIRUNELVELI
2. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TIRUNELVELI TOWN,
TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.4343 of 2021
Date : 22/03/2021

gns
PK/SMA/29.03.2021 : 3P/4C