



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.4487 of 2021

Sekar

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station, Palayamkottai,
Tirunelveli District.
Crime No. 17 of 2020..

... Respondent/Complainant

For Petitioner : Mr.Sasidharan Tamilkani S.T.,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.17 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is the sole accused, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 5(i), (iii) and 6 of Protection of Children from Sexual Offences Act, 2012, and Section 9 of Child Marriage Restraint Act, 1929, in Crime No.17 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on the basis of the complaint given by the defacto complainant/ Social Welfare Officer, V.M.Chatram, Tirunelveli District, that a child marriage was being performed between the petitioner and a child, who is a minor, and

<https://hccservices.courts.madras.gov.in/hccservices/>



3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the date of birth of the victim had been erroneously stated by her parents. He further submitted that now the victim girl gave birth to child on 09.08.2020. Hence, he prayed for grant of anticipatory bail to the petitioner.

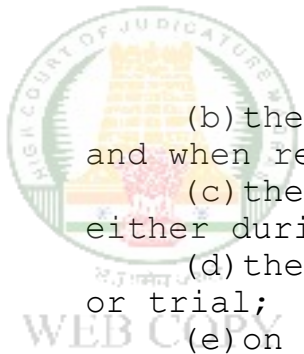
5. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the petitioner is the husband of the victim minor girl.

6. It is seen that there is no birth certificate for the victim girl and the school register alone is available. The parents of the victim girl are uneducated rustic villagers. The school authorities had entered the date of birth on their own, it was submitted that the victim is not a major. According to the petitioner, the victim girl is a major and the marriage was conducted with the blessings and concurrence of the parents of the petitioner and the victim girl in a temple as per their custom and their relatives and villagers participated and blessed the couples. Due to love affair, the petitioner got married the victim girl. Out of marriage, the victim girl gave birth to child on 09.08.2020 and they are living happily. The Social Welfare Officer had lodged a complaint an getting information from a anonymous call.

7. Considering the facts and circumstances of the case and also considering the rival submissions on either side and on perusal of the materials available on records, the petitioner is the husband of the victim girl and they are living happily, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Sessions Judge, Special Court for POCSO Act cases, Tirunelveli, on condition that the petitioner 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner 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



(b) the petitioner shall report before the respondent police as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-

24/03/2021

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

vsg

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 SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.S.T.SASIDHARAN TAMILKANI, Advocate SR.No.2542

ORDER

IN

CRL OP(MD) No.4487 of 2021

Date :24/03/2021

NR/VR(30.03.2021) 3P:5C