



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 23/04/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.5338 of 2021

Aathimoolam

... Petitioner/Accused No-2

Vs

State Rep.by
The Inspector of Police,
Thattaparai Police Station,
Thattaparai,
Tuticorin District.
Crime No.20/2021.

... Respondent/Complainant

For Petitioner : Mr.S.Muthumalai Raja,
Advocate.

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)

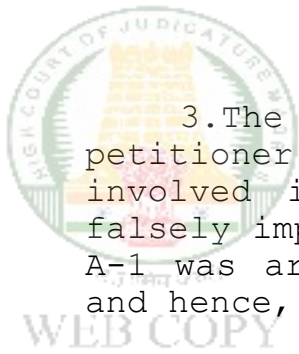
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.20 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under sections 9, 10, 11 of Child Marriage Act and 5(1), 6 of Prevention of Child Sexual Offences (POCSO) Act in Crime No.20 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that that the de-facto complainant is the husband of one Jeyaselvi, who is aged about 16 years and he gave a complaint before the respondent police stated that his wife was missing on 28.01.2021. After receiving the complaint, the respondent police registered a case in Crime No.20 of 2021 under "Women Missing". Thereafter, the victim was rescued by the respondent, the case was altered. The respondent police recorded 164 of Cr.P.C. statement of Jeyaselvi. Based on the 164 of Cr.P.C. statement, the de-facto complainant was arrayed as A-1 in this case.



3.The learned counsel for the petitioner would submit that the petitioner is the father of A-1 and is innocent and he has no way involved in the alleged occurrence and the petitioner has been falsely implicated in the present case. He would further submit that A-1 was arrested and later released on bail by the Sessions Court and hence, he seeks anticipatory bail.

4.The learned Government Advocate (criminal side) for the respondent police would submit that the marriage between the minor victim girl and A-1 was solemnized on 01.09.2020 at Tiruchendur Murugan Temple. After marriage, A-1 has scolded the minor victim girl and also had continuous sexual torture to the victim and therefore, the minor victim girl left the matrimonial home. A-1 gave a complaint before the respondent and the case has been registered under "Women Missing" and thereafter, the victim was rescued. Based on the 164 of Cr.P.C. statement of the victim girl, the de-facto complainant/A-1 was shown as an accused in this case and now released on bail by the Sessions Court and this petitioner is the father of the accused.

5.Considering the facts and circumstances of the case and also considering the fact that the main allegation is only against A-1 and no specific overt act is attributed against this petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 Sessions Judge, Special Court for Exclusive Trial of POCSO Act, Thoothukudi District, and on his executing 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 learned Magistrate concerned and on further conditions 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 cards or Bank pass Books to ensure their identity;

(b)the petitioner shall report before the respondent police, daily, at 10.30 a.m., until further orders;

(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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
23/04/2021

/ 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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF POCSO ACT,
THOOTHUKUDI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION,
THATTAPARAI,
TUTICORIN DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.5338 of 2021
Date :23/04/2021

SJI
MS/PN/SAR-2/13.05.2021/3P.4C