



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 13/07/2021

PRESENT

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The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.8208 of 2021

1.Maruthupandi
2.Madhavan
3.Kaleeswari

... Petitioners/Accused
1 to 3

Vs

The State rep.by
The Inspector of Police,
Parmakudi All Women Police Station,
Paramakudi, Ramanathapuram District.
Crime No.8 of 2021

... Respondent/Complainant

For Petitioners : Mr.D.Senthil,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.8 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 offences punishable under Sections 9, 10 of the Prohibition of Child Marriage Act 2006 and Section 5 (1), 6 of the Protection of Child from Sexual Offences Act 2012 in Crime No.8 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant's date of birth is 02.08.2004 and she is studying 11th standard in Karadaranthakudi Government School. On 30.03.2021, at about 06.30 am., her father Mathavan and aunt Kaleeswari had given her in marriage with one Maruthupandi against her wish. Since her mother was in ill-health, she was not able to stop the marriage. The first petitioner had physical relationship with her, at night hours, on the same day. Thereafter, he had physical relationship with her for several times. Hence, the complaint.



3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that no marriage had been taken place. Therefore, he seeks anticipatory bail to the petitioners.

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4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is not completed. He produced Section 164 Cr.P.C., statement of the victim girl.

5.Reading of Section 164 Cr.P.C., statement of the victim shows that she denies the conduct of marriage between her and A1. Only decision was taken for the conduct of the marriage, after she completes 18 years. It is also stated that the complaint was given at the instructions of the Inspector of Police.

6.It is seen that there are two versions available. The version of the defacto complainant, who is the victim in this case in the FIR is that she was given marriage to A1 against her wish and that A1 had physical relationship with her. Another version given by the defacto complainant while recording Section 164 Cr.P.C., statement is that no marriage had been taken place and she gave complaint on the basis of instructions given by the Inspector of Police.

7.Considering the contradictory statements expressed by the defacto complainant, which are diametrically opposite to each other, this Court is of the considered view that anticipatory bail may be granted to the petitioners with a direction to co-operate with the investigation including medical test, so that investigation be completed and final report be filed. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioners.

8.Accordingly, 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 Sessions Judge, (Fast Track Mahila Court), Ramanathapuram 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 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 respondent police daily at 10.30 am, until further orders.



[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]**.

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

sd/-
13/07/2021

/ 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,
FAST TRACK MAHILA COURT, RAMANATHAPURAM.
- 2.DO THROUGH THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, RAMANATHAPURAM DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PARMAKUDI ALL WOMEN POLICE STATION,
PARAMAKUDI, RAMANATHAPURAM DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.D.SENTHIL, Advocate (SR-4533[I] dated 13/07/2021)

ORDER IN
CRL OP(MD) No.8208 of 2021
Date :13/07/2021

GNS

TK/AKM/SAR.1/15.07.2021/3P/6C

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