



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/07/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) No.9248 of 2021

Divya

... Petitioner/Accused No.4

Vs

The State Rep. by,
The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.
(Crime No.5 of 2021).

... Respondent/Complainant

For Petitioner : Mr.S.Balaji,
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.5 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 5(j), 5(j)(ii) and 5(L) r/w Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 80 and 81 of Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 17 of Protection of Children from Sexual Offences Act, 2012 in Crime No.5 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the District Child Welfare Officer, Sivagangai District. She got an information that victim in this case was subjected to sexual harassment. She visited All Women Police Station and found the victim girl along with 24 days old child, which was born to her. The victim informed that she was 17 years and studying 12th standard in SVK School, Thekoor. Her classmate, A1 and she were in love with



each other. On 04.09.2020 A1 came to her house and had penetrated sexual relationship with her. On 08.05.2021, victim girl's sister Meenatchi admitted in the hospital and the victim girl was attending her sister. Her aunt, Divya found the stomach of the victim was abnormal and hence, scan was taken. It was found that the victim girl was pregnant. On 19.05.2021, as per the advise given by the petitioner herein, surgery was conducted and a female child was delivered. When it was enquired with the Doctor Banumathi, she informed that after treatment, the victim was discharged on 27.05.2021 and the child was given in adoption to one Bathampriyal. Accused 2 to 6 in this case, after knowing the fact that the minor girl got conceived, due to sexual assault and delivered a baby, did not inform the same to the Child Welfare Committee. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and she has been falsely implicated in this case. It is his further submission that the petitioner only accompanied with the victim girl for medical treatment.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is not completed.

5.Narration of facts show that the petitioner, who is the aunt of the victim girl, had admitted the victim girl in Banumathi hospital and child was delivered through operation. The petitioner is no way connected with alleged sexual assault committed by A1 against the victim girl. Therefore, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Court for the Exclusive Trial of the cases under POCSO Act, Sivagangai, 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 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 identity.

[b]the petitioner shall report before respondent police as and when required.

[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]**.

[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,
SPECIAL COURT FOR THE EXCLUSIVE TRIAL OF THE
CASES UNDER POCSO ACT,
SIVAGANGAI.
2. THE PRINCIPAL DISTRICT JUDGE,
SIVAGANGAI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPATHUR,
SIVAGANGAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9248 of 2021
Date :13/07/2021