



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/08/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.10532 of 2021

1. Mohan

2. Rajeshwari ... Petitioner Nos.1&2 /Accused No.2&3

Vs

State Rep by

The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar.

(Crime.No.402 of 2020). ... Respondent/Complainant

For Petitioners : Mr.Vishnu.V,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory bail in Crime No.402 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Section 363 of I.P.C. r/w. Sections 5(1) and 6 of Protection of Child from Sexual Offences Act, 2012 and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006, in Crime No.402 of 2020 on the file of the respondent police, seek anticipatory bail.

<https://hosevices.courtstn.gov.in/hosevices/>



2.The case of the prosecution is that A1 fell in love with the victim girl, who is aged about 16 years. On the pretext of marrying her, he had physical relationship with the victim girl. Thereafter, A1 kidnapped the minor girl and brought to the house of A2 and A3, where A1 married the victim girl and had physical relationship with her. Since the whereabouts of the victim girl were not known, the present complaint was lodged.

3.The learned counsel for the petitioners submit that the petitioners were granted anticipatory bail by this Court on 11.12.2020 in Crl.O.P.(MD)No.14608 of 2020, but the petitioners could not surrender and execute the sureties, since the second petitioner was pregnant. They also filed a petition seeking extension of time. This Court by order dated 08.04.2021 in Crl.M.P.(MD)No.2914 of 2021 in Crl.O.P.(MD)No.14608 of 2020 granted time. Even then, the petitioners could not surrender and execute the sureties, since the second petitioner was pregnant.

4.The learned Government Advocate (Crl. Side) submitted that the petitioners are the brother and sister-in-law of A1 and they only arranged the marriage. A1 fell in love with the victim girl and had sexual intercourse with her. On the complaint lodged by the victim girl's parents, the victim girl was secured and she is now with her parents. A1 was arrested and he was released on bail. He further submitted the petitioners were already granted anticipatory bail, but they did not surrender and execute the sureties. Hence, he seeks dismissal of this petition.

5.Considering the facts and circumstances of the case and considering the fact that the second petitioner was pregnant, the petitioners could not surrender and execute the sureties, this Court is inclined to grant anticipatory bail to the petitioners.

6.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 Special Court for POCSO Act, Srivilliputhur, 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 learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity;

[b]the first petitioner shall report before the respondent police, daily at 10.30 a.m., for a period of two weeks and thereafter, the petitioners shall report before the respondent police 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]**;

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

sd/-
03/08/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

IAS

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 JUDGE FOR POCSO ACT,
SRIVILLIPUTHUR
- 2 THE INSPECTOR OF POLICE
THIRUCHULI POLICE STATION, VIRUDHUNAGAR.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.10532 of 2021
Date :03/08/2021