



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/07/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) . Nos.9583 and 9588 of 2021

- | | |
|----------------|--|
| 1. Jeyaraj.S | |
| 2. Chandra | ... Petitioners/Accused No.2 and 3
in Cr1.O.P. (MD) No.9583 of 2021 |
| 3. Balamurugan | |
| 4. Ponnazhagu | ... Petitioners/Accused No.1 and 5
in Cr1.O.P. (MD) No.9588 of 2021 |

Vs

The State rep.by,
The Inspector of Police,
Oomatchikulam Police Station,
Madurai District.
Crime No.149 of 2021.

... Respondent/Complainant
in both petitions

For Petitioner : Mr.S.J.Jeyakumaran, Advocate.
(Cr1.O.P. (MD) No.9583 of 2021)
For Petitioner : Mr.S.J.Chakkaravarthy, Advocate.
(Cr1.O.P. (MD) No.9588 of 2021)
For Respondent : Mr.M.Muthumanikkam,
(in both petitions) Government Advocate (Cr1.Side)

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

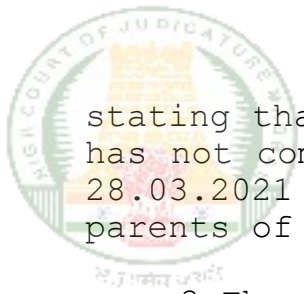
COMMON PRAYER :-For Anticipatory Bail in Crime No.149/2021 on the
file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 to A3 and A5, who apprehend arrest at the
hands of the respondent police for the alleged offences punishable
under Sections 9 and 10 of Child Marriage Restraint Act 1929,
respectively, in Crime No.149 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant,
namely, Y.Santhi, being Rural Welfare Officer, Social Welfare
Services, came to the respondent police given a complaint before the respondent police

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stating that the marriage between the victim girl, in this case, who has not completed 18 years with the first accused was celebrated on 28.03.2021 at Oomachikulam Community Hall. A2 and A3 are the parents of the victim girl and A4 and A5 are the parents of A1.

3.The learned counsel for the petitioners in Crl.O.P.(MD) No.9583 of 2021 submitted that the petitioners were not informed about the marriage. On the date of marriage, they were informed about the marriage by the first accused. When they visited the place, the marriage was already over. Therefore, they have no role in the performance of the marriage between the first accused and the victim. The case of the petitioners in Crl.O.P.(MD)No.9588 of 2021 is that they were informed by the parents of the victim that she had completed 18 years and therefore, the marriage was conducted. In this regard, he submitted that the age of the victim girl, on the date of marriage, was 17 years 11 months and 8 days. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. Side) for the respondent strongly opposed this petition on the ground that investigation in this case is not completed.

5.It is seen that the victim girl had not completed 18 years. However, she had completed 17 years, 11 months and 8 days on the date of marriage. As per the case of the petitioners in Crl.O.P.(MD)No.9588 of 2021, it appears that after the marriage, there was a dispute between the first accused and the victim and it is alleged by the petitioners in Crl.O.P.(MD)No.9583 of 2021 that the victim was sent out of home. This is altogether different matter and beyond the enquiry covered in these cases.

6.Considering the factual circumstances, it is alleged by one side that they were not informed about the marriage at all and other side that they were informed that the victim was completed 18 years and these claim and counter claim are to be decided only in the course of trial.

7.In view of the facts and circumstances of the case, the custodial interrogation of the petitioners is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioners with conditions.

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 Additional Mahila Court(JM Level), Madurai, 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 Additional Mahila Court 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 the respondent police, daily at 10.30 a.m., 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/-

27/07/2021

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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 ADDITIONAL MAHILA COURT(JM LEVEL),
MADURAI.
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
OOMATCHIKULAM POLICE STATION,
MADURAI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>



4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2. CC to Mr.S.J.CHAKKARAVARTHY, Advocate SR.No.4884 AND 4885.

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ORDER
IN
CRL OP (MD) . Nos.9583
and 9588 of 2021
Date :27/07/2021

SJI
MK/VR/SAR.II/02.08.2021/4P/7C