



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/07/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.10060 of 2021

Nagarani

... Petitioner/Accused No.3

Vs

The state rep.by,
The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
(Crime No. 20 of 2021)

... Respondent/Complainant

For Petitioner : M/s.Pon Karthikeyan.R,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. 20 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 Section 304B of the Indian Penal Code, altered into Section 9,10 and 11 of the Prohibition of Child Marriage Act, Section 352 IPC and Sections 5(1) r/w 6 POCSO Act, 2012 in Crime No.20 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the marriage between the defacto complainant and the victim Jeyaselvi was conducted on 01.09.2020. On 27.01.2021, the victim used mosquito coil and it was found that mosquito coil fell on the cot and the fire of the mosquito coil made hole in the cot. The defacto complainant asked his wife why she did that. Then, she left from home about 07.00 am., and she did not return home. The defacto complainant asked her mother about whereabouts of his wife and she replied that she went some where else and she would return. After marriage, the victim had once left home and she returned only next day. When he asked her about what had happened and why she left home, she replied that she had forgotten the way back to home. He advised her not to do like this. She again gone missing on 28.01.2021. Hence, the complaint.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and she is the mother of the victim. Therefore, he seeks anticipatory bail to the petitioner.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is not completed. However, he submitted that medical examination is over and Section 164 Cr.P.C., statement is recorded.

5.Perusal of Section 164 Cr.P.C., statement of the victim shows that her marriage was held on 01.09.2020. She left house and went to Tirunelveli bus stand. She met one Ramesh. She claimed him as brother. Ramesh took her to his sister's house. There, they stayed about 1 ½ week. Then, Ramesh misbehaved with her. Then, Police apprehended her. The learned counsel for the petitioner submitted that the victim is closed to 18 years.

6.Considering the facts and circumstances of the case where it is seen that victim herself left from home and it is claimed that she loved A2 and there was child marriage with the defacto complainant, who is now shown as A1 in this case, the fact that medical examination is over, Section 164 Cr.P.C., statement is recorded, this Court is of the view that custodial interrogation of the petitioner is not necessary in this case. Therefore, this Court is inclined to grant anticipatory bail to the petitioner.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, 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/-
29/07/2021

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

+1. CC to M/S.PON KARTHIKEYAN.R Advocate SR.No.4952
dated:30.07.2021

ORDER
IN
CRL OP(MD) No.10060 of 2021
Date :29/07/2021

RT/VR/SAR-IV/02.08.2021/3P/5C