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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 26/08/2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . Nos.11313 and 10778 of 2021

1.Banumathi ... Petitioner/3rd Accused
In CRL.OP.No.11313/2021

2.Selvi ... Petitioner/5th Accused
In CRL.OP.No.10778/2021

Vs

The State rep.by,
The Sub Inspector of Police,
All Women Police Station,
Thiruppathur Police Station,
Thiruppathur,
Sivagangai District.
Crime No.5 of 2021.

... Respondent/Complainant
In both the petitions

For Petitioner : MR.R.SUNDAR SRINIVASAN,
Advocate in Crl.OP.No.11313/2021.

For Petitioner : MR.T.ANTONY ARULRAJ,
Advocate in Crl.O.P.No.10778/2021.

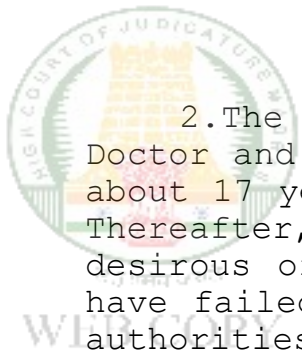
For Respondent : MR.E.ANTONY SAHAYAPRABAHAR,
(In both petitions) Government Advocate (Crl.Side)

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.

COMMON ORDER : The Court made the following order :

The petitioner/A3 and A5 apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 5(j)(1), 5(i)(II), 5(1), 6 and 17 of POCSO Act and Sections 80 and 81 of the Juvenile Justice (Care and protection of Children) Act, 2015, in Crime No.5 of 2021 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution is that the third accused is a Doctor and the fifth accused is a nurse. The victim is a minor aged about 17 years delivered a child through cesarian in A3's hospital. Thereafter, the child was given to one Pathampiriyal, who is desirous of adopting a child by the fifth accused. The petitioners have failed to inform about the child birth by a minor girl to the authorities concerned. Hence, the complaint.

3.The learned counsel for the petitioner submits that the petitioners are innocents, they have not committed any offence as alleged by the prosecution, but they has been falsely implicated in this case.

4.The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that the investigation is yet to be completed.

5.Considering the facts and circumstances of the case and the nature of allegation levelled against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, these Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail in the event of arrest or their 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, Sivagangai, 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 Judge 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 learned Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall report before the respondent police once in a week i.e on every Monday at 10.30 a.m until further orders.

(c)the petitioners shall not tamper with the 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 Judge/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been breached.

<https://hccs.ecourts.org/cases/>



Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

(f) if the accused/ petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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/ /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 EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, SIVAGANGAI.

2 THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUPPATHUR
POLICE STATION, THIRUPPATHUR, SIVAGANGAI DISTRICT.

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

+1 CC to MR.R.SUNDAR SRINIVASAN, Advocate (SR-5703[I] dated 26/08/2021)

ORDER
IN
CRL OP (MD) No.11313 of 2021
Date : 26/08/2021

TMG/MSA
MK/PN/SAR.I/06.09.2021/3P/5C