



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 23/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).Nos.11082 and 11158 of 2021

Crl.O.P. (MD)No.11082 of 2021:

1. Ithayachandiran @ Edayachandran
2. Suruli @ Surulimalai
3. Thangapillai @ Karuva Thangapillai
4. Velthai
5. Maharajan

... Petitioners/Accused No.1 to 3,5 & 6

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Aundipatti,
Theni District.
(Crime No.05/2021)

... Respondent/Complainant

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.05 of 2021 on the file of the respondent Police.

For Petitioners: Mr.S.Vikram,
Advocate.

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

Crl.O.P. (MD)No.11158 of 2021:

Kaleeshwaran

...Petitioner/Accused No.4

Vs

The Inspector of Police,
All Women Police Station,
Aundipatti,
Theni District.
(Crime No.05/2021)

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

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



PRAYER :-

For Anticipatory Bail in Crime No.05 of 2021 on the file of the respondent Police.

For Petitioner : M/s.D.Malaichamy
Advocate.

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

COMMON ORDER

Totally, there are eight accused in this case. The petitioners in Crl.O.P.(MD)No.11082 of 2021/A1 to A3, A5 and A6, who were arrested on 14.07.2021 for the offence punishable under Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006 in Crime No.5 of 2021 on the file of the respondent police, seek bail.

2. The petitioner in Crl.O.P.(MD)No.11158 of 2021/A4, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006 in Crime No.5 of 2021 on the file of the respondent police, seeks anticipatory bail.

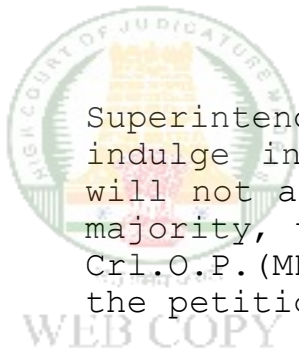
3. The case of the prosecution is that the Child Welfare Officer of Theni has given a complaint against the petitioners and two others stating that they have arranged the marriage for a minor child, aged about 13 years with A1, aged about 30 years.

4. The learned counsel appearing for the petitioners submits that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. The learned counsel further submits that A7 and A8 were already granted bail by the trial Court. Hence, they seek for grant of bail.

5. The learned Government Advocate (Crl. Side) submits that the child marriage was also solemnized. Considering the nature of offence, this Court, by order dated 23.07.2021 dismissed the earlier anticipatory bail petition filed by A4, Kaleeswaran, petitioner in Crl.O.P.(MD)No.9835 of 2021.

6. The learned counsel for the petitioner submits that the petitioners in Crl.O.P.(MD)No.11082 of 2021/A1 to A3, A5 and A6 filed an affidavit attested by the Superintendent of Prison before this Court that they had an intention to solemnize the marriage, but, the marriage was not solemnized and they will not indulge in any child marriage and have also undertaken that they will not arrange the marriage for the victim child till she attains majority.

7. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioners and also the fact that the petitioners have filed an affidavit attested by the



Superintendent of Prison before this Court that they will not indulge in any child marriage and have also undertaken that they will not arrange the marriage for the victim child till she attains majority, this Court is inclined to grant bail to the petitioners in Crl.O.P.(MD)No.11082 of 2021 and also to grant anticipatory bail to the petitioner in Crl.O.P.(MD)No.11158 of 2021.

8. Accordingly, Criminal Original Petition in Crl.O.P.(MD) No.11082 of 2021 is ordered. The petitioners are directed to be released on bail on their executing 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 Judicial Magistrate, Aundipatty and on further conditions that:

[a] 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 abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness 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 absconds, a fresh FIR can be registered under Section 229A IPC.

9. Consequently, Crl.O.P.(MD)No.11158 of 2021 is also ordered. 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 Judicial Magistrate, Aundipatty, 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 conditions that:

[a] 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 the respondent Police daily at 10.30 a.m. until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

23/08/2021

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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 JUDICIAL MAGISTRATE, AUNDIPATTY.
 2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
 3. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, AUNDIPATTI, THENI DISTRICT.
 4. THE OFFICER INCHARGE, DISTRICT PRISON, THENI DISTRICT.
 5. THE SUPERINTENDENT, WOMEN CENTRAL PRISON, MADURAI.
 6. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1CC TO Mr.D.MALAICHAMY, ADVOCATE, SR NO.5578

ORDER IN

CRL OP(MD).Nos.11082 and 11158 of 2021

Date :23/08/2021

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<https://hmcg.cer.nic.in/Services/11082.2021/4P.8C>