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

Date : 20/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12574 of 2021

1. Arockiasamy,

2. Anthoniyammal, ... Petitioners/Accused Nos.3 & 4

Vs

State rep by

The Inspector of Police,

All Women Police Station, Thoothukudi,

Thoothukudi District.

(Crime No. 31 of 2021).

... Respondent/Complainant

For Petitioner : M/s. Pragalathan. N,
Advocate.

For Respondent : T.Senthil Kumar,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 31 of 2021 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners/A3 & A4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 9, 10 of the Prohibition of Child Marriage Act and Section 5(1), 6 of POCSO Act, in Crime No.31 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first accused married the victim girl, who is a minor. The petitioners herein and the second accused arranged their marriage. On the complaint lodged by the Social Welfare Officer, the case was registered.



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

4.The learned Government Advocate (Crl.Side) appearing for the respondent police, on instructions, would submit that statement of the victim under Section 164 Cr.P.C is recorded, wherein, she has stated that on her own volition, she had eloped with the first accused.

5.Taking into consideration of the facts and circumstances of the case, the fact that on her own volition, the victim girl eloped with the first accused, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, this Criminal Original Petition is 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 Special Court for Exclusive Trial of Cases under the POCSO Act, Thoothukudi, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 learned Magistrate 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 as and when required for interrogation.

(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 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]***; 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.

ssb

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 Judge,
Special Court for Exclusive Trial of Cases under the POCSO Act,
Thoothukudi.
2. The Inspector of Police,
All Women Police Station, Thoothukudi,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-6397[I] dated 21/09/2021)

ORDER IN
CRL OP(MD) No.12574 of 2021
Date : 20/09/2021

TR/SKN/SAR-III (27.09.2021) 3P 5C