



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

Date : 29/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.13079 of 2021

WEB COPY

1. Ananth
2. Anthony
3. Mariammal
4. Paulraj ... Petitioners/Accused(Rank Not Known)

Vs

The State Rep.by
The Inspector of Police,
All Women Police Station,
Tirunelveli City,
(Crime No.16 of 2021) ... Respondent/Complainant

For Petitioners : M/s.Lenin Kumar.T,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

For Intervenor : Mr.D.Rajaboopathy

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

PRAYER :-

For Anticipatory bail in Crime No. 16 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 366(A) and 506(ii) of IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2019 and Section 9 of Child Marriage Act, 2006 and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, in Crime No.16 of 2021, seek anticipatory bail.

2. The case of the prosecution is that when the defacto complainant visited her grandmother's home, she met the first petitioner and developed friendship. On 01.03.2021, the first petitioner took the defacto complainant in his two wheeler to his sister's house, where he tied thali and had sexual intercourse with



her. When the defacto complainant prevented the first petitioner, he threatened her that if she disclosed the same to anyone, he will upload the photograph in the social media. However, the above said issue came to the knowledge of the parents of the defacto complainant through the maternal uncle of the defacto complainant. When the parents of the defacto complainant questioned the above said issue to the petitioners, the petitioners threatened them with dire consequences. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the first petitioner and the complainant are relatives and they loved each other. He further submitted that the petitioners are innocents and they have not committed any offence as alleged by the prosecution.

4.The learned Additional Public Prosecutor appearing for the respondent police submitted that the victim is aged about 17 years and the first petitioner had committed sexual assault on the victim girl and also taken some photographs for the like of tying thali and criminally intimidated her. He further submitted that the statement recorded under Section 164 of Cr.P.C., narrated the manner in which the offence has been committed.

5.Considering the rival submissions, this Court, by order dated 28.09.2021, granted interim anticipatory bail to the petitioners enabling them to appear before the respondent police for a period of two weeks and co-operate for the enquiry and also directed the respondent police to file a report before this Court on the next hearing.

6.Today i.e on 29.10.2021, when the matter is taken up for hearing, the respondent Police has filed a report before this Court, wherein it is stated that the first petitioner has not co-operated for enquiry and has not handed over the mobile phone in which the obscene photos of the victim child are available.

7.Considering the conduct of the first petitioner, the manner in which the offence has been committed, the age of the victim girl and considering the statement recorded under Section 164 Cr.P.C of the victim, this Court is not inclined to grant anticipatory bail to the first petitioner. Accordingly, this Criminal Original Petition is dismissed insofar as the first petitioner is concerned.

8.However, insofar as the petitioner Nos.2 to 4 are concerned, they are the parents and brothers of the first petitioner. The allegation as against them is that they are said to have abused the defacto complainant and the victim and also criminally intimidated. Hence, considering the facts and circumstances of the case and the nature of allegations levelled against the petitioner Nos. 2 to 4, this Court is inclined to grant anticipatory bail to the



petitioners 2 to 4.

9. Accordingly, this Criminal Original Petition is allowed insofar the petitioner Nos.2 to 4 and the petitioner Nos.2 to 4 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 Mahila Court (Special Court for POCSO Act Cases), Tirunelveli, on condition that the petitioner Nos.2 to 4 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 petitioner Nos.2 to 4 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 petitioner Nos.2 to 4 shall report before the respondent police daily at 10.30 a.m., until further orders;

(c) the petitioner Nos.2 to 4 shall not tamper with the evidence or witness either during investigation or trial;

(d) the petitioner Nos.2 to 4 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 Nos.2 to 4 in accordance with law as if the conditions have been imposed and the petitioner Nos.2 to 4 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;

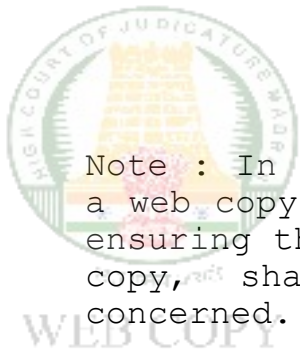
(f) if the accused/ petitioner Nos.2 to 4 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

10. In the result, this Criminal Original Petition is partly allowed.

sd/-
29/10/2021

/ 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 Judge,
Mahila Court (Special Court for
POCSO Act Cases),
Tirunelveli.
2. The Inspector of Police,
All Women Police Station,
Tirunelveli.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.RAJABOOPATHY, Advocate (SR-7705[I] dated 29/10/2021)

ORDER

IN

CRL OP(MD) No.13079 of 2021

Date :29/10/2021

RD/CN/SAR-II (17.11.2021) 4P 5C