



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 16/09/2021
PRESENT

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The Hon`ble Mr.Justice **B. PUGALENDHI**

CRL OP(MD).Nos.13539 & 13649 of 2021

1. Pappa
2. Alagumalai ... Petitioners/ Accused Rank Not Known
in Crl.OP(MD)No.13539 of 2021
3. Velammal
4. Karuppasamy ... Petitioners/ Accused Rank Not Known
in Crl.OP(MD)No.13649 of 2021

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Aruppukottai, Virudhunagar.
In Crime No.Not Known of 2021.

... Respondent/Complainant
in both the petitions

For Petitioners : Mr.G.Mariappan,
Advocate. (In both the petitions)

For Respondent : Mr.E.Antony Sahaya Prabhakar,
Additional Public Prosecutor (In both the petitions)

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

COMMON PRAYER IN CRL OP(MD).Nos.13539 & 13649 of 2021 :-

For Anticipatory Bail in Crime Nos.Not Known of 2021 on the
file of the respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/accused, apprehending arrest at the hands of
the respondent police for the alleged offences punishable under
Sections 9, 10, 11 Prohibition of Child Marriage Act, in Crime Nos.
Not Known of 2021 on the file of the respondent police, seek
anticipatory bail.

2.The case of the prosecution is that one Chinraj on a promise
to marry her, had forcible intercourse with a child namely
Sangileeswari. Hence, he was arrested for an offence under Section
5 of POCSO Act and remanded. As the petitioners being the parents of
the couple, solemnised the marriage, the respondent police has
registered a case against the petitioners under Sections 9, 10 & 11
of the Prohibition of Child Marriage Act, 2006.



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

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4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners are the parents of the first accused and the victim girl. They have solemnised marriage for the victim girl with the first accused. The victim girl also got pregnant and she was taken to hospital for delivering the child. The doctor had given intimation to the respondent police and based on that, the case has been registered against the petitioners. Subsequently, the victim girl was also produced before the concerned Judicial Magistrate and statement under Section 164 Cr.P.C., has also been recorded. However, he fairly submitted that in the statement recorded under Section 164 Cr.P.C., the victim girl stated that the marriage was not a forcible one.

5. Taking into consideration of the facts and circumstances of the case, the nature of allegations, the status of the petitioners and the statement of the victim girl, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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 POCSO Act Cases, Virudhunagar District at Srivilliputtur, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the learned Court 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;

(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 Special Judge/ 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 Special Judge/Trial Court themselves 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
16/09/2021

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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 SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, ARUPPUKOTTAI,
VIRUDHUNAGAR.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13539 and 13649 of 2021
Date :16/09/2021

AM/CSM
MK/PN/SAR.I/24.09.2021/3P/4C