



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/09/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.14574 of 2021

1. Dhanesh @ Dhaneshmurali,

2. Mukesh @ Mugeshbabu, ... Petitioners/Accused Rank Not Known

Vs

STATE REP BY

The Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.

Cr.No. 208 of 2021. ... Respondent/Complainant

For Petitioner : M/s.Karthick R.J.,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

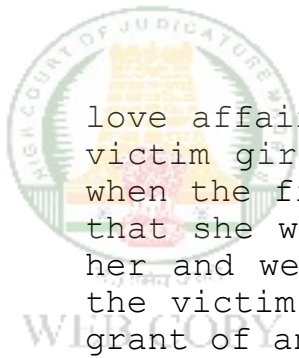
For Anticipatory Bail in Crime No.208 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police, for the offence punishable under Sections 363 IPC and 11(iv) r/w. 12, 16 r/w. 17 of POCSO Act, in Crime No. 208 of 2021, on the file of the respondent Police, seek anticipatory bail.

2. The defacto complainant is the father of the victim girl. The case of the prosecution is that on 06.08.2021, at about 11 p.m., the victim girl was missing from the house. Originally, a case has been registered as woman missing case and thereafter, it was altered into 363 IPC and 11(iv) r/w. 12, 16 r/w. 17 of POCSO Act.

3. The learned counsel for the petitioners submits that the victim girl had love affair with the first petitioner. The second



love affair, the parents of the victim girl warned her. Hence, the victim girl demanded the first petitioner to take her with him and when the first petitioner refused to do the same, she threatened him that she will commit suicide. Therefore, the first petitioner took her and went to his sister's house. After the advice of his aunt, the victim girl returned to her parental home. Hence, he prayed for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submits that the investigation is yet to be completed. He also produced the statement of the victim girl recorded under Section 164 Cr.P.C., in which, she stated that she had love affair with the first petitioner and on her compulsion only, the first petitioner took her along with him.

5. Considering the facts and circumstances of the case and also considering the statement of victim girl recorded under Section 164 Cr.P.C., in which, she stated that she had love affair with the first petitioner and on her compulsion only, the first petitioner took her along with him, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, the Criminal Original Petition is allowed. 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 Judicial Magistrate No.V, Tirunelveli, 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 first petitioner shall report before the respondent police daily at 10.30 a.m. until further orders; the second petitioner 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 are 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
29/09/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

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 No.V,
Tirunelveli.
2. Do-Through The Chief Judicial Magistrate,
Thirunelveli District.
3. The Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.14574 of 2021
Date : 29/09/2021

TR/VR/SAR-II(04.10.2021) 3P 5C