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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/11/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP (MD) . No.14824 of 2021

1.Sagayaraj
2.Charles

... Petitioners/
Accused No.1 and 2

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Thiruverambur,
Trichy District.
(Crime No.20 of 2021).

... Respondent/Complainant

For Petitioners : M/s.V.Kathirvelu, Senior Counsel
for M/s.Lenin Kumar, Advocate

For Respondent : M/s.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.20 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused No.1 and 2 apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 354, 354(A) and 509 of IPC and Section 4(2), 5(1), 5(m) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 in Crime No.20 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant was married to one Prabhu, who is the sister's son of the second



petitioner. Out of wedlock, she gave birth to two male children. On 13.06.2020, the defacto complainant's husband passed away. Taking advantage of the same, the accused misbehaved with the defacto complainant and her children. Therefore, the present case came to be registered.

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3.The learned senior counsel appearing for the petitioners submitted that the petitioners are intending to take care of the defacto complainant and her children. Without understanding the same, she has foisted a false complaint against the petitioners. He further submitted that the petitioners are innocents and they have been falsely implicated in this case.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the victims are aged about 7 years and 5 years old. The defacto complainant and her children have been misused by the petitioners. They have been produced before the concerned Judicial Magistrate and their statements were recorded under Section 164 of Cr.P.C. He further submitted that the investigation is yet to be completed.

5.Considering the statement of the victims, when this Court was about to dismiss this application, the learned Senior Counsel for the petitioners submitted that he would advise their clients to take care of the victims and their mother and to show their bona fide, the petitioners have taken the Demand Drafts for a sum of Rs.2,00,000/- in the name of the children and filed an undertaking affidavit that they will not disturb the defacto complainant as well as her children at any point of time.

6.Taking into consideration of the facts and circumstances of the case, the nature of allegation levelled against the petitioners and the undertaking affidavit filed by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners.

7.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 Mahila Court (Special Court for POCSO Act Cases), Trichy, 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 Judge 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 Judge 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 daily at 10.30 a.m., until further orders.

(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 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 Judge/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.

8. The Inspector of Police shall ensure that the amount deposited by the petitioners are properly utilized for the studies of the victims and also ensure that the victims pursue their studies.

Sd/-

01/11/2021

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

CP

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),
Trichy,
2. The Inspector of Police,
All Women Police Station,
Thiruverambur,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER

IN

CRL OP(MD) No.14824 of 2021

Date : 01/11/2021