



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

Date : 08/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.15736 of 2020

1. S.Gurusamy
2. Marrimuthu

... Petitioners 1 & 2

Vs

State Rep.by
The Inspector of Police,
Muthiyapuram Police Station,
Tuticorin, Tuticorin District.
(Crime No.362/2020)

... Respondent/Complainant

For Petitioners: Mr.V.Thiyagarajan,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

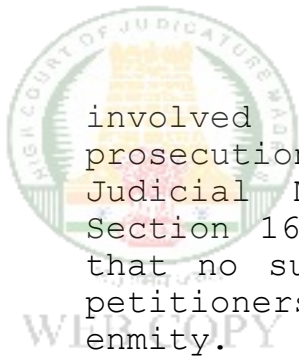
PRAYER :- For Anticipatory Bail in Crime No.362/2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused Nos.1 & 2, apprehending arrest at the hands of the respondent police for the offences punishable under sections 366A and 506(ii) IPC and under Section 3A and 4 of the Protection of Children From Sexual Offences Act, in Crime No.362 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The gist of the case is that on 19.09.2020 one Kumar lodged a complaint before the respondent Police that he had already lodged a complaint on 26.08.2020 that his daughter was missing and based on the complaint his daughter was rescued from one Kabali and it was later known that the accused Kabali had sexually abused his daughter and therefore, the case in Crime No.362 of 2020 came to be registered.

3.The petitioners submit that the prosecution case is false and due to previous enmity between the *de facto* complainant and the petitioners a false complaint has been lodged and the complaint is lodged falsely and the petitioners are innocent. They had not



involved in any commission of offence, as alleged by the prosecution. Further, the girl was produced before the learned Judicial Magistrate No.4, Thoothukudi and her statement under Section 164(4) CrPC was recorded, wherein she has clearly deposed that no such alleged offence had taken place and Therefore, the petitioners are falsely implicated in this case due to previous enmity.

4.The learned Government Advocate (Crl Side) submitted based on the complaint lodged by the *de facto* complainant that the victim girl was kidnapped and physically abused, the case came to be registered and after a frantic search the accused No.1 was arrested and sent to judicial remand and the girl was secured and produced before Judicial Magistrate No.4, Thoothukudi and her statement under Section 164(4) CrPC was recorded, however, she deposed that she had voluntarily gone along with accused No.1 and had not attributed anything against the accused.

5.Considering the submissions made on either side and perusing the 164 CrPC statement of the victim girl, it is seen that it is stated by the girl herself that she had gone along with accused No.1 on her own and he did not commit any offence and further she had not attributed anything against the petitioners and therefore, I am inclined to grant anticipatory bail to the petitioners.

6.In the view of the above, I am inclined to grant anticipatory bail to the petitioners.

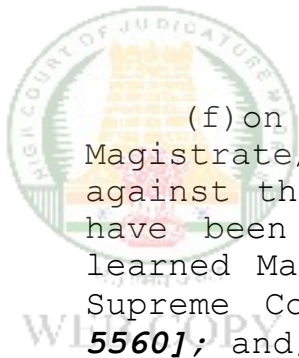
(a)Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance before the learned Judge, Special Court for Exclusive Trial of Cases under POCSO Act at Thoothukudi and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned.

(b)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure the identity;

(c)the petitioners shall report before the respondent police as and when required for interrogation. The petitioners to submit for medical examination, if called for.

(d)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioners shall not abscond either during investigation or trial;



(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner 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;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
08/01/2021

/ 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,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT AT THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
MUTHIYAPURAM POLICE STATION,
TUTICORIN, TUTICORIN DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.15736 of 2020
Date : 08/01/2021

dsk
MS/PN/SAR-2/18.01.2021/3P.4C