



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2022

WEB COPY

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.755 of 2022

1.Kalyani Davaraj
2.Usha Devaraj

...Petitioners

Vs.

The State Represented by
The Inspector of Police,
Polur All Women Police Station,
Thiruvannamalai.
(Crime No.4 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police concerned in crime No.4 of 2021, on the file of the respondent Police.

For Petitioners: Mr.R.Ramesh

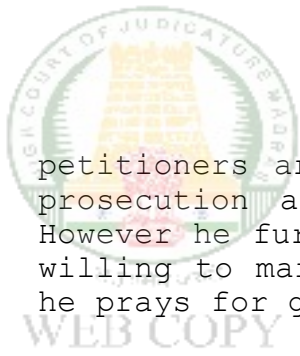
For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest for the alleged offence under Sections 363, 366-A IPC, 5(i)(ii), 5(1), 6 and 17 of POCSO Act, 2012 in Crime No.4 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioner's son fell in love with the minor victim girl/defacto complainant's daughter, who is aged about 15 years and compelled her to have sex with him and took her to his house and sexually assaulted the victim girl and refused to marry her and she has become pregnant. Hence the law enforcing agency registered a case against the petitioners.

3.The learned counsel appearing for the petitioners submits that the victim girl, on her own volition, came out of the house to marry the petitioner's son as she was in love with him. The



petitioners are no way connected with the offence as alleged by the prosecution and that he has been falsely implicated in the case. However he further submits that now the petitioner's son is ready and willing to marry the victim girl after she attains majority. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner's son had kidnapped the minor victim girl, who is aged 15 years and under the guise of marrying her, had sexually assaulted her and the defacto complainant's daughter has become pregnant. He further submits that the statement of the victim u/s 164 Cr.P.C. was recorded and the investigation is almost completed. He further submits that this court has already granted bail to the co-accused in CrI.OP.No.13952 of 2021 dated 16.08.2021.

5. Considered the submissions made on either side and also perused the materials available on records carefully, including the statement of the victim u/s 164 Cr.P.C.

6. On a perusal of the statements of the victim girl recorded under section 164 of Cr.P.C., it reveals that the victim girl and the petitioner's son were in love with each other and the petitioner's son had also promised to marry the victim girl and that the petitioner's son had gone to the house of the victim and took her to his house and she went on her own volition and the defacto complainant's daughter has become pregnant. It is further evident from the records that this court has already granted bail to the co-accused. In such circumstances, there being no direct allegation against the petitioner by the victim and the co-accused having already been enlarged on bail, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:

7. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Polur, on condition that the petitioners shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

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



(b) the petitioners shall report before the respondent police as and when required for an interrogation;

(c) the petitioners shall not tamper with 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 petitioner in accordance with law as if the conditions has 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;

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

-sd/-

19/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
POLUR, TIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
POLUR ALL WOMEN POLICE STATION,
THIRUVANNAMALAI.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.R.RAMESH Advocate on payment of necessary charges
SR.No.737

CRL OP.755/2022

Date :19/01/2022

CSK 20/01/2022