



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventeenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3931 of 2022

1 VENKATESAN SIVALINGAM [PETITIONERS / ACCUSED]
2 SIVALINGAM
3 R.SARASWATHI

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NEYVELI,
CUDDALORE DISTRICT.
(CRIME NO.21 OF 2021)

For Petitioner : MR.V.REGUNATHAN, Advocate, for
M/S.K.VIJAYAKUMAR Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest for the alleged offences under **Section 5(1) POCSO Act r/w Sections 9 and 10 of Prohibition of Child Marriage Act, 2006** in Crime No.21 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner married a minor girl aged about 16 years, the second petitioner is the father of the first petitioner and the third petitioner is the mother of the minor girl. Hence, the present case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that as of now, both the first petitioner and the victim girl are living together. It is his specific submission that being the reason that the petitioners 2



and 3 are illiterate persons, without knowing the consequences of Law, they arranged the marriage between the first petitioner and the victim girl. Hence, he pleads for grant of anticipatory bail to the petitioners.

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4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that as of now, the investigation is pending.

5. Submissions made by the learned counsels appearing on either sides are considered.

6. The respondent police registered a case against the petitioner for the offence punishable under Section 5(1) POCSO Act r/w Sections 9 and 10 of Prohibition of Child Marriage Act, 2006. Admittedly, the first petitioner and the victim girl are living together. Further, there is no allegation against the petitioners 2 and 3 that after knowing the fact that the child marriage is a prohibited one they arranged the marriage.

7. In view of the above submissions made by the learned Counsels appearing for either sides and also considering the fact that the gravity of the offence committed by the petitioners is not severe and hence custodial interrogation may not be necessary, this Court is inclined to grant anticipatory bail to the petitioners.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the **Judicial Magistrate Court at Neyveli**, on condition that each of 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners and the sureties shall affix his 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 daily at 10.00 a.m., for a period of thirty(30) days and thereafter as and when required for 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 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;

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

-sd/-
17/02/2022

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,
NEYVELY, CUDDALOR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NEYVELI,
CUDDALORE DISTRICT.

+1 CC to M/S.K.VIJAYAKUMAR Advocate on payment of necessary charges SR.NO.2538

CRL OP.3931/2022

Date :17/02/2022

TA-22/02/2022