



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4037 of 2022

POONKODI @ MALLIKA

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
DHARMAPURI DISTRICT.
(CRIME NO.367 OF 2021)

[RESPONDENT]

For Petitioner : M/S.K.GANDHI KUMAR Advocate

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

PETITION FOR BAIL ANTICIPATORY 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offence under Sections 9, 10 of Child Marriage Act of 2006 @ under Sections 5(i) r/w 6, 16 (1) r/w 17 of POCSO Act and under Sections 9, 10 and 11 of the Child Marriage Act, 2006 in Crime No.367 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the mother of the victim girl(A2) aged about 16 years, conducted marriage of the victim girl with the first accused and the petitioner is a relative of the second accused. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would further submit that the alleged occurrence narrated by the prosecution was committed by the first accused with the consent of the victim child and therefore the petitioner is no way responsible for the entire scenario. Accordingly , he pleaded for anticipatory bail to the petitioner.



4. Mr.S.Santhosh, the learned Government Advocate(crl.side) appearing for the respondent police raised objection stating that investigation is pending. However he admits in the alleged occurrence the first accused married the victim child after getting her consent.

5. The submissions made by the learned counsel on either side are considered.

6. Now on considering the said submissions with relevant records either averments found in the F.I.R. as well as the statement given by the victim child before the Magistrate, it would disclose the fact that the alleged marriage happened between the first accused and the victim child is arranged marriage. Then only, the first accused indulged in the sexual activity with the victim child. Therefore for completing investigation for the said offence, custodial interrogation of the petitioner may not be necessary. Accordingly, taking note of all the above said aspects into consideration and also the nature of offence committed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate, Palacode, Dharmapuri District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), with two sureties 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 petitioner 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 petitioner shall report before the respondent police daily at 10.00 a.m., for a period of Fifteen(15) days and thereafter, as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner 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 petitioner 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/-
24/02/2022

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,
PALACODE, DHARMAPURI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
DHARMAPURI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.K.GANDHI KUMAR Advocate on payment of necessary charges SR.NO.2881

CRL OP.4037/2022

Date :24/02/2022

JPA 02/03/2022