



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.4540 of 2022

ARPUTHAM

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
POLUR,
TIRUVANNAMALAI DISTRICT
CRIME NO.16 of 2021

[RESPONDENT]

For Petitioner : M/S. B.JAWAHAR Advocate

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

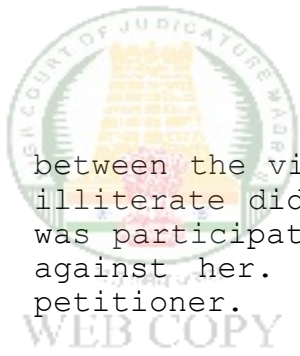
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offence under Sections 376(2) (n) of IPC r/w 5(I) and 6 of POCSO Act and Sections 9 & 10 of Prohibition of Child Marriage Act in Crime No.16 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that defacto complainant, who is an officer of Social Welfare Officer lodged a complaint alleging that on 27.08.2021, child marriage was solemnised between the victim child and one, Pandian and after marriage he committed penetrative sexual assault against the victim child. 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 petitioner being the mother of the victim child participated in the marriage solemnized



between the victim child and the first accused. The petitioner who is illiterate did not know about the law and only due to the reason she was participated in the marriage the present case has been registered against her. 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 would admit as of now, portion of investigation has been completed.

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

6. The respondent police registered a case against the petitioner for the offences punishable under Sections 376(2)(n) of IPC r/w 5(I) and 6 of POCSO Act and Sections 9 & 10 of Prohibition of Child Marriage Act. The investigation narrated by the learned Government Advocate(crl.side) would reveal the fact that the marriage between the first accused and the victim child is an arranged marriage. In otherwise, whether the persons who are all participated in the marriage are known the consequence of the child marriage or not is a matter for trial. Therefore, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai, 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 investigation;

(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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
TIRUVANNAMALAI.

2 THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
POLUR, TIRUVANNAMALAI DISTRICT

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. B.JAWAHAR Advocate on payment of necessary charges
SR.NO.2898

CRL OP.4540/2022

Date :24/02/2022

JPA 03/03/2022