



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14.02.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2345 of 2022

1.N.Michel Jesi

2.P.Senbagavadivu

... Petitioners/Accused Nos.2 & 3

Vs.

State rep.by

The Inspector of Police,
All Women Police Station,
Valliyoor,
Tirunelveli District.

(Crime No. 12 of 2021)

...Respondent/Complainant

For Petitioners : Mr.R.M.Suresh, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

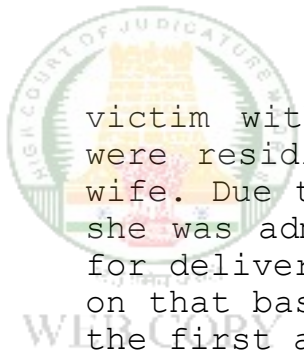
PRAYER :-

For Anticipatory Bail in Crime No.12 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 9, 10 of Prohibition of Child Marriage Act, 2006 and under Section 5 (1), 5(i)(ii), 6 and 17 of Protection of Child from Sexual Offences Act, 2012, in Crime No.12 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the victim, who is aged about 16 years, that she is residing along with her mother at Poultry Farm at Avarakulm, Kaniyakumari District, wherein the victim's mother is working, that on 28.09.2020, the mother of the victim and the first petitioner and the mother of the accused have jointly performed the marriage of the



victim with the first accused, Arulraj and that thereafter, they were residing at Madavalayam, Anandhapadmanabapuram as husband and wife. Due to that, the victim girl became pregnant and subsequently, she was admitted in Asaripallam Government Medical College Hospital for delivery. The Hospital Authority had informed the respondent and on that basis a case has been registered against the petitioners and the first accused.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. The first accused and the victim were on love and subsequently, they got married and also gave birth to a child and only at the time of delivery, after coming to know about the age of the victim, the Hospital Authority has lodged a complaint and on that basis, FIR came to be registered.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petitioners jointly performed the marriage of the victim girl, who is aged about 16 years and at the time of delivery, the Government Medical College Hospital Authority, informed the Police, therefore, a case has been registered against the petitioners and the first accused. He would further submit that the first accused was arrested and released on bail and that the Medical test were already taken and are awaiting for DNA report.

5.Admittedly, the petitioners are the mothers of the first accused and the victim respectively.

6.Considering the facts and circumstances of the case and also the fact that the main accused was already released on bail and that the investigation is almost completed, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Judge, Special Court for POCSO Act, Cases, Tirunelveli, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall report before the respondent police <https://hcservices.courts.gov.in/hcservices/> required for interrogation.



(c) the petitioners shall not tamper with the 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 petitioners 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/ petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

14/02/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

das

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 SPECIAL JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, VALLIYOOR,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.2345 of 2022

Date :14/02/2022

PKP/JM/SAR-2/21.02.2022/3P/4C

<https://hcservices.ecourts.gov.in/hcservices/>