



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/04/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.5136 of 2022

1. Sameera Bagam
2. Mumtaj Begam

... Petitioners/Accused
No.5 & 6

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Tiruppathur,
Sivagangai District.
(Crime No.7 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Ajmalkhan.S.A., 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.7 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A5 and A6, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 376 (3) and 376AB of IPC r/w 3 and 4, 5(m), 5(I) r/w 6 and 9(m) r/w 10 and 17 of POCSO Act, 2012 in Crime No.7 of 2021, seek anticipatory bail.

2.The case of the prosecution is that A1 had committed sexual assault on the victim girl repeatedly and when the same was informed to one Sameera and her mother, who is the fourth accused by the victim girl, the other accused committed sexual harassment to the victim. Therefore, the victim girl informed the same to one Sarala



and the said Sarala informed the respondent police through child help line. Based upon which, the respondent police arrested all the accused persons and thereafter, they were released on bail. In these circumstances, the respondent police altered the FIR and included the petitioners as A5 and A6 based on the statement of the victim girl under Section 164 of Cr.P.C.

3.The learned counsel for the petitioners would submit that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. He would further submit that the co-accused were already arrested and released on bail.

4.The learned Additional Public Prosecutor would submit that the investigation is almost completed and that the petitioners are not having any previous case.

5.Considering the nature of the charges levelled against the present petitioners and also the facts that the co-accused were already arrested and released on bail, that the petitioners are not having any bad antecedents and that the investigation is almost completed as stated by the learned Additional Public Prosecutor, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai, 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Sessions Judge concerned and on further conditions that:

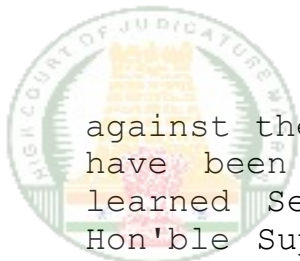
a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Sessions Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 am for a period of one month 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 Sessions Judge/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 Sessions Judge/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/-

07/04/2022

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

SJI

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 SESSIONS JUDGE,
SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES
UNDER THE POCSO ACT, 2012,
SIVAGANGAI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUPPATHUR,
SIVAGANGAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.AJMALKHAN.S.A. Advocate SR.No.3072

ORDER

IN

CRL OP(MD) No.5136 of 2022

Date :07/04/2022

SP/SVR/SAR I/19/04/2022/3P/5C