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CRL OP(MD).N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/10/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD).No.17055 of 2022

1.Rajeswari

2.Manoharan

3.Rani ... Petitioners/Accused rank not known

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Bodinayakanur,
Theni District.
(Crime No.22 of 2022)

... Respondent/Complainant

For Petitioner : Mr.V.Muthusamundeeswaran,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.22 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2, A3 & A5, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 9 and 10 of Prohibition of Child Marriage Act and Section 5 J(ii), 5 (1) and 6 of POCSO Act in Cr.No.22 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the Chief Doctor (Gynecology), Government Hospital, Cumbum, came to know that the victim girl is below the age of 18 years, on perusal of the Aadhar Card produced at the time of admission made in the Gynecology



Department to give birth and she has been married with t st accused and the same was consummated by their parents as well as the petitioners. The victim girl gave birth to a female child on 08.09.2022. Based upon which, the present case has been registered against the petitioners.

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3.The learned counsel for the petitioners would submit that the first petitioner is the husband of the victim girl and the second petitioner is the relative of both the family. He would further submit that the petitioners are innocent and they have been falsely implicated in this case and the victim was secured and she is in her parental home. Hence, he prays for anticipatory bail.

4.The learned Government Advocate(Crl.Side) strongly opposed this petition stating that the date of birth of the victim is 10.06.2004 and the marriage was solemnized on 05.01.2022 and at the time of marriage, the victim was a minor. He would further submit that the second petitioner's earlier application was dismissed by this Court, dated 20.09.2022. He would further submit that the statement of the victim girl under Section 164 of Cr.P.C. is also recorded and the major part of the investigation is almost over.

5.Considering the facts and circumstances of the case and also considering the fact that the nature of charges levelled against the petitioners and also the facts that the victim was secured and the major part of the investigation is almost over, 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 arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Bodinayakanur, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with common surety 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 Mahila 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 until further orders.

(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;

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(e) on breach of any of the aforesaid conditions, the learned Mahila Judge/concerned 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 Mahila Judge/concerned 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/-
19/10/2022

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/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

TO

1. THE JUDICIAL MAGISTRATE, BODINAYAKANUR.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
BODINAYAKANUR,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.17055 of 2022
Date :19/10/2022

RK/GB/SAR-1 (31/10/2022) 3P/5C