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Crl.O.P.(MD)N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/11/2022

PRESENT

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

CRL OP(MD) . Nos.19470 and 19487 of 2022

T.Sivakumar

... Petitioner/Accused No.3
in Crl.O.P.(MD)No.19470 of 2022

1.K.Saran

2.K.Sathya

... Petitioner/Accused No.1 & 2
in Crl.O.P.(MD)No.19487 of 2022

Vs

State Rep.by
The Inspector of Police,
Kalaiyarkovil Police Station,
Sivagangai.
(Crime No.240 of 2022).

... Respondent/Complainant
in both petitions

For Petitioner : Mr.C.Deepak, Advocate.
in Crl.O.P.(MD)No.19470 of 2022

For Petitioners : Mr.S.Malaikani, Advocate.
in Crl.O.P.(MD)No.19487 of 2022

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

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

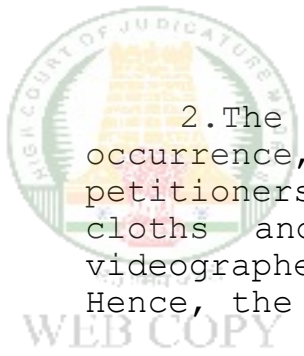
COMMON PRAYER :-

For Anticipatory Bail in Crime No.240 of 2022 on the file of
the Respondent Police

COMMON ORDER : The Court made the following order :-

The petitioners/A1 to A3, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections 11
(ii) r/w Section 12 of the Protection of Children from Sexual
Offences Act, Section 294(b) of IPC and Section 4 of Tamil Nadu
Prohibition of Harassment of Women Act, in Crime No.240 of 2022,
seek anticipatory bail.

<https://www.hk.mn.gov.in/judis>



2.The case of the prosecution is that on the occurrence, when the victim boy was returning from tuition, the petitioners and other accused waylaid the victim and removed his cloths and made him to parade to the Mariamman Temple and videographed the same and also abused him in filthy language. Hence, the complaint.

3.The learned counsel for the petitioners would submit that this is the petitioners' second anticipatory bail application and the earlier application was dismissed by this Court, dated 21.09.2022 in Crl.O.P.(MD)No.16072 of 2022. He would further submit that A5 was already granted anticipatory bail by this Court in Crl.O.P.(MD) No.18121 of 2022 on 12.10.2022. He would further submit that the petitioners are innocents and they have been falsely implicated in this case. Hence, he prays for anticipatory bail.

4.The learned Government Advocate(Crl.Side) strongly opposed this petition stating that the petitioner and other accused have made sexual offence on the victim boy and the petitioners' earlier application was dismissed by this Court in Crl.O.P.(MD)No.18121 of 2022 dated 12.10.2022. He would further submit that the statement of the victim boy is recorded under Section 164 of Cr.P.C. and the investigation is completed and the charge sheet is yet to be filed.

5.Considering the facts and circumstances of the case and also considering the facts that A5 was already granted anticipatory bail and the investigation is completed, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

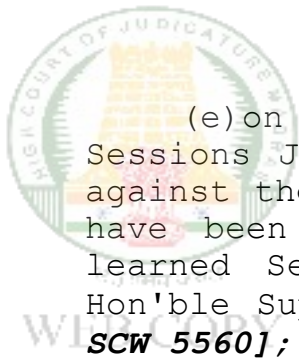
6.Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Sessions Judge, Special Court for POCSO Act Cases, Sivagangai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten 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 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 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;



(e) on breach of any of the aforesaid conditions, the 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/-

04/11/2022

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

TO

- 1 THE SESSIONS JUDGE, SPECIAL COURT FOR POCSO ACT CASES, SIVAGANGAI.
- 2 THE INSPECTOR OF POLICE, KALAIYARKOVIL POLICE STATION, SIVAGANGAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

- +1. CC to M/S.C.DEEPAK, Advocate, SR.No.52849[F] DATED 04.11.2022
+1. CC to M/S.S.MALAIKANI, Advocate, SR.No.12425[I] DATED 04.11.2022

ORDER IN

CRL OP(MD). Nos.19470 & 19487 of 2022

Date :04/11/2022

SJI

RS/VR/SAR.3(11.11.2022) 3P-6C