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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/11/2022

PRESENT

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

CRL OP(MD). No.20175 of 2022

1. Sundaramoorthy

2. Ganeshan

3. Kaliyammal

... Petitioners/ Accused Nos.1 to 3

Vs

The State Rep.by
The Inspector of Police,
All Women Police Station, Sivakasi,
Virudhunagar District.
(Crime No.19 of 2022)

... Respondent/Complainant

For Petitioners : M/s.Jothi Basu M,
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.19 of 2022 on the file of the Respondent Police.

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 366, 376(3) of IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(1), 5(j)(ii) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.19 of 2022, seek anticipatory bail.

2.The case of the prosecution is that on 21.08.2022, the accused Nos.2 and 3 have performed marriage between the first



accused and the victim girl. It is alleged that the victim is a minor, aged about 15 years. On 04.11.2022, the defacto complainant and other officials have conducted an awareness meeting about the child marriage, at that time, the fact was coming into picture. Hence, the complaint.

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3.The learned counsel for the petitioner would submit that the accused family and victim girl family are friends. The victim was in love with the first accused. Therefore, they took decision to perform marriage between them. He would further submit that the petitioners are innocent persons and they have been falsely implicated in this case. Hence, they may be granted anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that there existed love affairs between the first accused and the victim girl, who is aged about 15 years and got married. The victim girl is now two months pregnant. He would further submit that the petitioners are the parents of the first accused. The statement of the victim girl has also been recorded under Section 164 Cr.P.C. Further, in this case, five witnesses have been examined so far and the investigation is not yet completed. Hence, he strongly opposed to grant anticipatory bail.

5.Considering the facts and circumstances of the case and considering the statement given by the victim girl under Section 164 Cr.P.C and also the fact that five witnesses have been examined so far, this Court is inclined to grant anticipatory bail to the petitioner subject to the following 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 Judge, Special Court for POSCO Act Cases, Virudhunagar District, at Srivilliputtur, 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 respondent Police or to the Police Officer, who intends to arrest or 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 Magistrate 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 a.m., until further orders.

(c)the petitioners shall not tamper with evidence or witness
<https://www.court.gov.in> 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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

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To

1. The Judge,
Special Court for POSCO Act cases,
Virudhunagar District,
at Srivilliputtur.
2. The Inspector of Police,
All Women Police Station, Sivakasi,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S.G.M LAW OFFICE, SR.No.55108(F)

ORDER

IN

CRL OP(MD) No.20175 of 2022

Date :15/11/2022

RD/VR/ SAR- (24/11/2022) 3P 5C