



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/12/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21489 of 2022

1. Murugan
2. Jeyalakshmi

... Petitioners/Accused No.1 to 2

Vs

The State Rep. By,
The Inspector of Police,
Uthamapalayam,
AWPS Police Station,
Theni District.
(Crime No.32 of 2022).

... Respondent/Complainant

For Petitioner : M/s. Vidhya Sagar.S,
Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.32 of 2022 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 366 IPC, Section 9 of the Prohibition of Child Marriage Act, 2006 and Sections 5(j), (II) r/w 6 & 17 of Protection of Children from Sexual Offences Act, 2012 in Crime No.32 of 2022 on the file of the respondent police, seek anticipatory bail.

2.On information from Cumbum Manivannan Hospital that a minor victim girl was admitted for pregnancy, the respondent police had gone to the hospital and obtained statement from the minor victim girl, wherein, it was found that the victim girl was born on 21.07.2008 and the accused Karthik @ Karthikeyan, who is the cousin of the victim girl, had convinced the victim girl and performed child marriage with her and also committed penetrative sexual assault on her. Due to which, she became pregnant. Hence, the complaint.



3.The learned counsel for the petitioners would submit that the petitioners are the parents of the said Karthik @ Karthikeyan/A1. He would further submit that A1 and the minor victim girl eloped together and there seems to be a love affair between them. A1 has eloped with the victim girl and the petitioners were unable to find out the whereabouts of their son and the said victim girl. Later, A1 and the victim girl returned back home and it was found that the victim girl was pregnant and thereby, the petitioners have immediately admitted the victim girl to the hospital, from where, the intimation was given and the case has been registered. He would further submit that the petitioners have not agreed for marriage and they have reprimanded the victim as well as their son, due to which, they have eloped from the house. He would further submit that the petitioners understand that the statement has been recorded from the minor victim girl under Section 164 of Cr.P.C., wherein she has stated that the petitioners have not agreed for marriage between her and their son and thereby, she has eloped with the son of the petitioners. He would further submit that they hail from the lower strata of the Society and they were unaware of the rigorous and consequences of the Child Marriage Restraint Act and POCSO Act. Hence, they seek anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the petitioners are the parents of A1. A1 kidnapped the minor victim girl and performed the child marriage and later, committed penetrative sexual assault on her. Due to which, she became pregnant. He would further submit that A1 has been arrested and statement has also been recorded from the victim girl under Section 164 of Cr.P.C. Hence, he opposed for grant of anticipatory bail.

5.Heard. Perused the materials available on record and also the statement recorded from the victim girl under Section 164 of Cr.P.C.

6.Taking into consideration the facts and the submissions made by both the counsels, 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 on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Sessions Judge, Fast Track Mahila Court, Theni, on condition that the petitioners shall execute 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 Sessions Judge concerned and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



[b] the petitioner shall report before the responder daily evening at 06.30 p.m., for a period of two weeks and thereafter, every Saturday evening at 06.30 p.m 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 learned Sessions 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 Sessions Judge/concerned himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
07/12/2022

/ TRUE COPY /

/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THENI.
2. THE INSPECTOR OF POLICE
UTHAMAPALAYAM, AWPS POLICE STATION,
THENI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.VIDYA SAGAR, Advocate (SR-14521[I] dated 08/12/2022)

ORDER
IN
CRL OP(MD) No.21489 of 2022
Date :07/12/2022

sj
USK/VR/SAR-II/15.12.2022/3P/5C