



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P(MD)Nos.21976 and 21977 of 2022

WEB COPY

1.A.Murugan
2.T.Arumugam
3.A.Meenatchi

... Petitioners/Accused 1 to 3
in CrI.O.P. (MD)No.21976 of 2022

Priya

... Petitioner/Accused - 5
in CrI.O.P. (MD)No.21977 of 2022

-vs-

The State represented by
The Inspector of Police,
All Women Police Station, Manamadurai,
Sivagangai District.
(Cr.No.29 of 2022)

... Respondent/Complainant
in both petitions

COMMON PRAYER: Criminal Original Petitions filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.29 of 2022 on the file of the respondent Police.

(in both cases)

For Petitioners

: Mr.P.Arumugam
Advocate

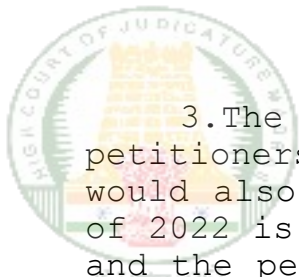
For Respondent

: Mr.A.Albert James
Government Advocate (CrI.side)

C O M M O N O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 5(1) r/w 6 of POCSO Act and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006, in Crime No.29 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that on the information given by the Social Worker, District Child Protection Office, that the accused had performed child marriage for the victim, who is aged 17 years and thereafter, the first accused had compelled her and had penetrative sexual assault on her, a case came to be registered.



3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would also submit that the first petitioner in Crl.O.P.(MD)No.21976 of 2022 is A1 and the second and third petitioners are parents of A1 and the petitioner in Crl.O.P.(MD)No.21977 of 2022 is the mother of the victim girl. He would also submit that the parents of the victim girl and the petitioners of A1 are known to each other. The parents of the victim girl informed that she had completed 18 years and believing the same, a marriage was performed after printing of the invitation. The A1 and his parents were under the *bona fide* belief that the victim has completed 18 years, whereas, only, later the victim informed that she has not completed 18 years. He would submit that major part of the investigation is over and a statement has also been recorded from the victim girl under Section 164 Cr.P.C. He would also submit that the petitioners are ready to abide by any stringent conditions that may be imposed on them and the first petitioner is also ready and willing to cooperate for potency/masculinity test.

4.The learned Government Advocate (crl.side) would submit that the victim girl is aged 17 years and above and the parents of the victim girl had informed the parents of the first accused that the victim had completed 18 years, based on which, the marriage was performed. Later, the victim had called Child Helpline, 1098 and informed that the marriage was performed without her consent and thereby, the case. He would also submit that the first accused had committed penetrative sexual assault on the victim girl.

5.Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R. and also the statement has also been recorded from the victim girl under Section 164 Cr.P.C., 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 on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, No.I, Sivagangai, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with one surety each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



[b] the first petitioner in Crl.O.P.(MD)No.21976 of 2022 as and when called for the respondent Police shall appear for potency/masculinity test conducted during the course of investigation.

[c] the first petitioner in Crl.O.P.(MD)No.21976 of 2022 shall report before the respondent police everyday at 10.30 a.m., until further orders. the other petitioners shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

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

sd/-

20/12/2022

/ TRUE COPY /

/12/2022

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

CMR

TO

1. THE JUDICIAL MAGISTRATE NO.I, SIVAGANGAI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, MANAMADURAI,
SIVAGANGAI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.ARUMUGAM.P, Advocate (SR-15159[I] dated 20/12/2022)

ORDER IN

CRL.O.P(MD)Nos.21976 and
21977 of 2022

Date :20/12/2022

USK/SSS/SAR-I/26.12.2022/3P/6C

<https://www.mhc.tn.gov.in/judis>