



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2022

PRESENT

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

CRL.O.P (MD) No.21503 of 2022

WEB COPY

- 1.Thavamani
- 2.Deivendhiran
- 3.Suntharavalli
- 4.Vairamani
- 5.Pothumani

... Petitioners/Accused Nos.2 to 6

-Vs-

The State represented by
The Inspector of Police,
Bodi All Women Police Station,
Theni District.
(Cr.No.27 of 2022)

... Respondent/Complainant

PRAYER: Criminal Original Petition 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.27 of 2022 on the file of the respondent Police.

For Petitioners : Mr.R.L.Dhilipan Pandian, Advocate

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

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 9(m), 9(n), 10, 19 and 21(1) of POCSO Act, and Section 506(i) of IPC in Crime No.27 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 due to the matrimonial dispute, both the de-facto complainant and her husband are living separately. When the victim girl, aged about six years, went to her father's house, A1, one Akesh, who is the son of the de-facto complainant's sister in law, has misbehaved with the victim girl and inappropriately touched her. When the same was questioned by the de-facto complainant, the other accused have threatened her with dire consequences. Hence, the complaint.



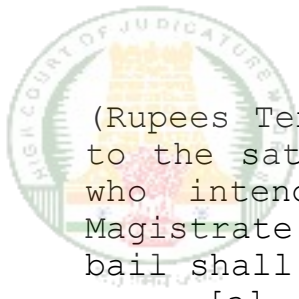
3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would submit that the first petitioner is the mother in-law of the de-facto complainant and the second petitioner is the husband of the de-facto complainant and the petitioners 3 to 5 are the sister in-laws of the de-facto complainant. He would submit that there exist a matrimonial dispute between the second petitioner and the de-facto complainant and the second petitioner filed H.M.O.P.No.178 of 2018 before the Sub Court, Theni and the learned Judge had granted divorce by order, dated 30.09.2020 and the de-facto complainant was antagonised with the same. The victim was all along in the custody of the second petitioner, thereafter, due to intervention of elders, the custody of the child was handed over to the de-facto complainant, who has now in order to wreck vengeance, instigated the victim, based on which, a false complaint has been given. He would submit that the victim has been tutored to make false allegations against the petitioners and the family members.

4.He would further submit that even as per the complaint, the main allegations are made out against one Akesh, who is the son of A4 and based on that, Akesh was arrested and later, he has been released on bail. He would submit that the earlier application for anticipatory bail was dismissed on the ground that the investigation is in the initial stage and the main accused was not arrested. He would also submit that the change of circumstance is that the main accused has been arrested and he has also been enlarged on bail. He would also submit that the major part of the investigation is over.

5.The learned Government Advocate (crl.side) would submit that the main accused one Akesh has misbehaved with minor victim girl and when the same was questioned by the de-facto complainant, the other accused have threatened her with dire consequences. He would also submit that the main accused Akesh was arrested and enlarged on bail. He would strongly oppose to grant anticipatory bail to the petitioners.

6.Heard the learned Counsel. Taking into consideration the facts and submissions and also perusing the materials available on record including the statement recorded from the victim girl under Section 164 Cr.P.C. and also the considering the fact that the allegations are made against one Akesh, who was arrested and released on bail, 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 Fast Track Mahila Court, Theni District, 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 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 second petitioner 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. The petitioners 1, 3 to 5 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter, as and when required.

[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 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]**.

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

sd/-

19/12/2022

/ TRUE COPY /

/12/2022

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

CMR

TO

1 THE JUDGE,
FAST TRACK MAHILA COURT, THENI DISTRICT.

2 THE INSPECTOR OF POLICE,
BODI ALL WOMEN POLICE STATION, THENI DISTRICT.

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

ORDER IN

CRL OP(MD) No.21503 of 2022

Date :19/12/2022

SA/MMS/SAR.1/28.12.2022/3P/4C

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