



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

Date : 15/12/2022

PRESENT

WEB COPY

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

CRL OP(MD) . No.21799 of 2022

1. Raja
 2. Tamilselvan
 3. Pechiyammal
 4. Chandhirabose @ Chandrabose
 5. Ponnupillai @ Pandiyamma
- ... Petitioners/Accused No.1 to 5

Vs

The State Rep. by,
The Inspector of Police,
Thirumangalam AWPS Police Station,
Madurai District.
(Crime No.34/2022).

... Respondent/Complainant

For Petitioners : M/s.Sivaprakash.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 Cr No.34/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 9 and 10 of the Tamil Nadu Prohibition of Child Marriage Act, 2006 and Sections 5(1), 5(j)(ii) and 6 of POCSO Act, 2012, in Crime No.34 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the District Social Welfare Officer is that the first accused had performed the child marriage with the victim girl, who was 17 years and she became pregnant. While they were living together, there was a misunderstanding between them and the victim attempted to commit suicide by consuming pesticide and she was admitted in the hospital for treatment. As per the information given to the Police, this case has been registered.



3.The learned counsel for the petitioners submitted that the petitioners 2 to 5 are none other than the parents of the victim and the first accused. There was a love affair between the first accused and the victim and without knowing the consequences of POCSO Act, they had sexual contact, due to which, the victim became pregnant. The petitioners 2 to 5, being their parents performed the marriage and they were living in Kerala. During that time, there was a matrimonial dispute between them, over which, the victim consumed poison. In this case, major part of the investigation has been completed and Statement of the victim was also recorded under 164 Cr.P.C, wherein, she has stated that she had voluntarily agreed for the marriage. Hence, prays to enlarge them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the first accused had committed the penetrative sexual assault on the victim and thereafter, the petitioners 2 to 5/A2 to A5 had performed marriage. While they were living in Kerala, the victim has consumed poison, due to matrimonial dispute. Though in this case, major part of the investigation has been completed and Statement under Section 164 Cr.P.C was also recorded from the victim, considering the gravity of the offence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the FIR, 164 Cr.P.C. statement of the victim.

6.Taking into consideration the facts and circumstances of the case and considering the 164 Cr.P.C statement of the victim and also considering the matrimonial dispute between the parties, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and 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 POCSO Act Cases, Madurai**, 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 respondent Police or the police officer, who intends to arrest or to the satisfaction of the learned Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;



(b) the petitioners 1 to 4 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders and the fifth petitioner shall report before the respondent Police, as and when required for interrogation;

(c) the petitioners shall not tamper with the 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 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 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/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/12/2022

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/12/2022

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

PNM

TO

1. THE JUDGE,
SPECIAL COURT FOR POCSO ACT CASES, MADURAI.
2. THE INSPECTOR OF POLICE
THIRUMANGALAM AWPS POLICE STATION,
MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.SIVAPRAKASH.S, Advocate (SR-14893[I] dated 15/12/2022)

ORDER
IN
CRL OP(MD) No.21799 of 2022
Date :15/12/2022

USK/SSS/SAR-I/23.12.2022/3P/5C