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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2022

PRESENT

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

CRL OP(MD). No.22081 of 2022

Maragatham

... Petitioner/Accused No.4

Vs

The state rep.by,
The Inspector of Police,
All Women Police Station,
Sivakasi,
Virudhunagar District.
Crime No.17 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Prabu M, 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.17 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 4(1), 5(1) (d) of Prevention of Immoral Traffic Act, Sections 4, 5, 6 of Prevention of Child Marriage Act, Sections 5(1) r/w 14(1), 15 of POCSO Act, in Crime No.17 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant/minor victim xxx is that she was studying in 11th standard in a Government School and during lock-down period, she got acquainted and developed friendship with the first accused in a Free Fire Game and thereafter, love developed between them. She informed the same to her mother/petitioner and her mother also spoke with the first accused and both have agreed to perform their



marriage, after four years. In the meanwhile, the petitioner had taken a loan of Rs.80,000/- from the mother of the first accused and later, the victim came to know that the parents of first accused have taken steps for his marriage. Therefore, she eloped with the first accused and they got married. When they were living at Sivakasi, the first accused inducted her in prostitution. There was a fight between the three to four persons, who had come to their house and one person, who is working in Army also got injured and he was taken to hospital. Based on the complaint given by the victim, this case has been registered.

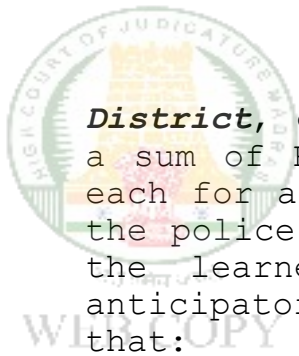
3. The learned counsel for the petitioner submitted that the petitioner is the mother of the victim and she is innocent and when the petitioner came to know about the love affair of the victim, she agreed to perform the marriage with the first accused, after a period of four years, whereas, without the knowledge of the petitioner, the victim eloped with the first accused. In order to save the dignity of her family, she did not prefer any complaint, whereas, the first accused involved the victim into prostitution. The petitioner other than being the mother of the victim, no other role is played by her either in the marriage or the subsequent occurrences. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner is the mother of the victim and she has not given any complaint, when the victim had eloped with the first accused. As per the statement recorded from the victim, under Section 164 Cr.P.C. Statement, she has stated that the first accused had married her and thereafter, he involved her into prostitution. Therefore, he vehemently opposed to release the petitioner on anticipatory bail.

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

6. Taking into consideration the facts and circumstances of the case and considering the fact that the petitioner, being the mother of the victim had not intimated the elopement of the minor victim along with A1 and preferred a complaint to Police and there is no other allegation as against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or her 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, Srivilliputhur, Virudhunagar**



District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties 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 Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner 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;

[c] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the petitioner 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 petitioner in accordance with law, as if the conditions have been imposed and the petitioner 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/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
14/12/2022

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/01/2023

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,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.



2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SIVAKASI,
VIRUDHUNAGAR DISTRICT.

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

ORDER

IN

CRL OP(MD) No.22081 of 2022

Date :14/12/2022

RK/BUC/SAR-1 (02/01/2023) 4P/4C