



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2022

PRESENT

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

CRL.O.P (MD) No.22967 of 2022

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1.Gomathi
2.Ramar
3.Eswari

...Petitioner/Accused No.2,3&4

-vs-

The State represented by
The Inspector of Police,
Devathanapatti Police Station,
Theni District.
(Cr.No.201 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.201 of 2022 on the file of the respondent Police.

For Petitioners : Ms.A.Banumathy, Advocate

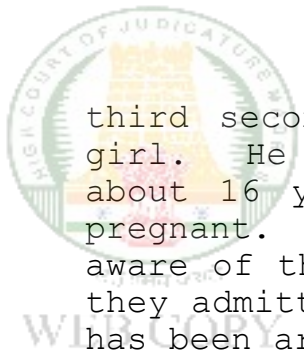
For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 366 of IPC and Section 5(j)(ii), 6 and 17 of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.201 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Minor XXXX, is that she developed love affair with the first accused, Viswanathan and that on 15.12.2021, the said Viswanathan had taken her to his house and in the prayer hall, tied Thali and thereafter, both of them were living as husband and wife, due to which she became pregnant and she was admitted in a hospital for delivery. Based on the intimation given by the hospital authorities, the present case has been registered.

3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He submit the first petitioner is the mother of A1 and the



third second and third petitioners are the parents of the victim girl. He would further submit that the victim girl, who is aged about 16 years, fell in love with the first accused and she got pregnant. He would further submit that the petitioners were not aware of the affair between them. However, since she got pregnant, they admitted her in the hospital. He would further submit that A1 has been arrested and he has been enlarged on bail. The petitioners were also granted anticipatory bail by the lower Court. Since they were unable to furnish surety, the said order got lapsed.

4.The learned Government Advocate (crl.side) would submit that A1 had kidnapped the victim minor girl and married her. He had also penetrative sexual assault on her, due to which she pregnant. He would also submit that A1 has been arrested and enlarged on bail.

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. as well as 164 Cr.P.C. statement recorded from the victim minor girl, 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 Sessions Judge, Mahalir Neethimandam, Theni, 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 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.

[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 imposed and the petitioners released on bail by the



learned Magistrate/Trial Court himself as laid down by the 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.

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/01/2023

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

CMR

TO

1.THE SESSIONS JUDGE, MAHALIR NEETHIMANDAM, THENI.

2 THE INSPECTOR OF POLICE,
DEVATHANAPATTI POLICE STATION,
THENI DISTRICT.

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

+1 CC to M/s.A.BANUMATHY, Advocate (SR-15490[I] dated 23/12/2022)

ORDER
IN
CRL OP(MD) No.22967 of 2022
Date :23/12/2022

RK/BUC/SAR-3 (03/01/2023) 3P/5C