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Crl.O.P.No.7459 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

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

Crl.O.P.No.7459 of 2023

1.Anbalagan

2.Chinnakannu

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Mettur, Salem District.

Crime No.16 of 2022.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners/accused on bail, in connection with the
Crime No.16 of 2022, pending investigation on the file of the respondent
Police.

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.C.E.Pratap
Government Advocate (crl.side)



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ORDER

(This case has been heard through Video Conferencing)

The petitioners, who were arrested and remanded to judicial custody on 12.03.2023 for the offences punishable under Sections 294(b), 323, 506(i) of IPC and Section 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.16 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant/victim, minor XXXX, aged about 17 years, is that she was in love with her neighbour one Ravichandran/A1, for the past one year, during which, he used to give lot of love letters to her. Later, when nobody was in the house of A1, A1 had taken the victim to his house and had committed penetrative sexual assault on her. Thereafter, on several occasions, A1 had committed penetrative sexual assault on the victim girl. Thereafter, when their relationship came to the knowledge of parents of A1, they initiated marriage arrangements for him with his relative girl and when it was questioned by the victim, A3/mother of A1, has verbally abused her and later, without her knowledge, performed A1's marriage. Hence the case.



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3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they are respectively maternal uncle and mother of A1. He further submitted that the petitioners were not aware of the love affair of A1 with the victim girl and whereas, after the marriage being performed between A1 and the grand daughter of A3, the victim has lodged a false complaint against the petitioners, as if, they have abused her verbally. He further submitted that other than the allegation of verbally abusing the victim, there is no other allegations as against the petitioners. He also submitted that the petitioners are in judicial custody from 12.03.2023 and hence, he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners are respectively the maternal uncle and mother of A1. He further submitted that A1, who is the neighbour of the minor victim girl, aged about 17 years and the victim are loving each other and A1 taking advantage of the same, has forcibly committed penetrative sexual assault on her for several occasions and later, he married some other girl. He further submitted that as far as these petitioners are concerned, they have verbally abused the victim girl, when she questioned



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the first accused for cheating her. He also submitted that the statement under Section 164 Cr.P.C has been recorded from the victim girl and A1 in this case is still absconding. Hence, he opposed for grant of bail to the petitioners.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record including the statement recorded under Section 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Sessions Judge, Principal POCSO Court, Salem**, and on further



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conditions that:

[a] 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., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners shall not tamper with evidence or witness 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 abscond, a fresh FIR can be registered under Section 229A IPC.

05.04.2023

ham/vkr



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To

1. The Sessions Judge,
Principal POCSO Court, Salem.
2. The Inspector of Police,
All Women Police Station,
Mettur, Salem District.
3. The Central Prison,
Salem.
4. The Special Prison for Women,
Salem.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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