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Crl.O.P.No.8621 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

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

Crl.O.P.No.8621 of 2023

1. Sarath Kumar

2. Venu

... petitioners

Vs.

State represented by,
The Inspector of Police,
Thoraipakkam Police Station,
Chengalpattu District,
(Crime No.93 of 2023).

... 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.93 of 2023, pending on the file of the respondent police.

For petitioners : M/s K. Govi Ganesan

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 18.03.2023 for the offences punishable under Section 305 of I.P.C and Section 5(1) read with 6 of POCSO Act and Sections 9,10 of Prohibition of Child Marriage Act in Crime No.93 of 2023, on the file of the respondent Police, seek bail.

2. The case of the prosecution as per the defacto complainant/SV Ravichandran is that he is the 184th Ward Councillor of Tirumalai Nagar, Chennai -96 and he had received information that a minor girl who is the daughter of Elumalai was found dead in suspicion circumstances and that on enquiry he came to know that the victim/deceased was a minor girl and that her family had performed her marriage with the first petitioner/A1, who is the son of the second petitioner/A2. After the marriage when the victim/deceased and A1 were living as husband and wife the deceased committed suicide by hanging. Further allegation against the accused is that the accused had married the victim girl who is a minor and committed matrimonial cruelty. Hence the complaint.



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3. The learned counsel appearing for the petitioners would submit that the first petitioner and the second petitioner are the husband and father-in-law of the victim/deceased. He would further submit that the parents of the victim has arranged the marriage without disclosing the fact that the victim/deceased is a minor. Later the petitioner came to know that the victim/deceased was forced by her parents for the marriage. The petitioners have not harassed or ill treated the victim girl and they were in judicial custody from 18.03.2023. Thereby, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the the petitioners performed the child marriage of the deceased without her consent, due to which she committed suicide by hanging. He would further submit that the parents of the deceased have also arrested and investigation is still pending. Hence, he opposed for grant of bail to the petitioners.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (crl.side) and perused the materials available on



6. Taking into consideration the facts and circumstances of the case, the submissions made by either side and also considering the period of incarceration suffered 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 his executing 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 **learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu** and on further 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 every day at 10:30 a.m for a period of four weeks and thereafter on every Saturday at 10:30 a.m until further orders;



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[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.

21.04.2023

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To

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu
2. The Inspector of Police, Thoraipakkam Police Station, Chengalpattu District, (Crime No.93 of 2023)
3. The Central prison, Chengalpattu
4. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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