



Crl.O.P.No.13114 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

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

Crl.O.P.No.13114 of 2023

1. Jahabar Sathik
2.Ahamed Settu

... Petitioners

Vs.

State of Tamil Nadu
Rep. by the Inspector of Police,
All Women Police Station,
Tiruvarur.
(Crime No.11 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail concerned in Crime No.11 of 2023
on the file of the respondent.

For Petitioners : Mr.G.Nizamudeen

For Respondent : Mr. C.E.Pratap
Government Advocate (Crl. Side)



ORDER

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The petitioners, who were arrested and remanded to judicial custody on 05.04.2023 for the offences punishable under **Section 6 r/w 5(j) (ii) and 5(1), 17 of POCSO Act, r/w 9 and 10 of Prohibition of Child Marriage Act, 2006** in Crime No.11 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused had performed child marriage between the minor victim girl and the 1st accused due to which, the victim girl became pregnant and admitted in Nagapattinam Government Hospital for delivery. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons. The 1st petitioner is the husband and the 2nd petitioner is the father of the victim girl and both their families are known to each other for a long time and that there was a love affair between the 1st petitioner and the victim girl. When both the families came to know that the 1st petitioner and the victim girl were in love affair with each, they had under the wrong impression that the victim girl would have completed the age of 18 years, arranged the wedding of the victim girl and the 1st petitioner in the



presence of the elders in the village and after the marriage, the victim got pregnant and when she was taken to the hospital, the doctors had found that the victim has not attained majority. Therefore, on their instructions, a statement had been obtained from the victim girl and subsequently, the case came to be registered. He would further submit that the petitioners understands that even in the statement recorded by the police and in the statement recorded by the Magistrate under Section 164 Cr.P.C., the victim has stated that the marriage between her and the 1st petitioner was performed only with her willingness and consent. He would also submit that now the victim girl has delivered a child and that the petitioners have been languishing in jail for more than 65 days from 05.04.2023. Hence, he prayed for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioners stating that the petitioners are respectively the husband and father of the victim girl. The accused had performed child marriage between the 1st petitioner/A1 and the minor victim girl aged 17 years due to which, the victim girl has become pregnant and now she has delivered a male child. However, he would submit that the statement of the victim girl has been recorded under



Section 164 Cr.P.C. wherein, she has stated that she had voluntarily agreed to marry the 1st petitioner and after marriage, she lived with the 1st petitioner as husband and wife.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent police and perused the materials available on record including the FIR and the statement recorded from the victim under Section 164 Cr.P.C.

6. Considering 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 of 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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Additional Mahila Court, Thiruvarur.**, 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 everyday at 10.30 a.m. for a period of two weeks and thereafter, every Saturday 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.

14.06.2023

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A.D.JAGADISH CHANDIRA,J.,

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To

1. The Judicial Magistrate, Additional Mahila Court, Thiruvarur.
- 2.The Inspector of Police,
All Women Police Station,
Tiruvarur.
3. The Central Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.

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