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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 12/01/2023

PRESENT

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

CRL OP(MD) . Nos.315 and 318 of 2023

1.Ranjith
2.Karnan
3.Rasathi

... Petitioners/Accused 1 to 3
in CrI.O.P.(MD)No.315 of 2023

1.Subramani
2.Ramalakshmi

... Petitioners/Accused 4 & 5
in CrI.O.P.(MD)No.318 of 2023

Vs.

The State Rep. by
The Inspector of Police,
Bodi All Women Police Station,
Theni District
(In Crime No.34 of 2022)

... Respondent/Complainant
in both petitions

In Both petitions:

For Petitioners : Mr.Jerin Mathew

For Respondent : Mr.A.Albert James
Government Advocate (CrI.Side)

PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.34 of 2022 on the file of the Respondent.

COMMON ORDER : The Court made the following order :-

The petitioners/Accused No.1 to 5 apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 9 and 10 of the Child Marriage Act r/w Sections 5(1), 6 and 17 of POCSO Act in Crime No.34 of 2002 on the file of the respondent, seek anticipatory bail.



2. The case of the prosecution as per the defacto complainant xxxxxx born on 25.06.2005 is that she is studying 1st year B.A(English) in the Government Arts and Science College, Theni and 3 months ago, her parents have arranged marriage with her relative and she had informed that she would marry only after completing her studies, whereas the petitioners have compelled her for getting marriage. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false complaint has been preferred against them. He would further submit that the first petitioner in Crl.O.P(MD)No315 of 2023 is the bride groom, who was proposed to be married to the defacto complainant and the petitioners 2 and 3 are his parents and the petitioners in Crl.OP (MD)No.318 of 2023 are the parents of the defacto complainant. He would also submit that the parties are relatives and the the father of defacto complainant is aged 62 years and he is a sick man and hence, both families decided to conduct the betrothal function whereas the defacto complainant misunderstood that it was a marriage and due to misunderstanding, a false complaint has been given. He would submit that the respondent police has recorded statement of the victim under Section 164 Cr.P.C wherein she has admitted that her father was sick and he was not going to a job, thereby, elders have only proposed for the marriage and on the complaint given by her, marriage was also stopped. He would submit that there was no compulsion by any of the petitioners to the defacto complainant to agree for marriage. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) would submit that the parents of the proposed bride groom and the parents of the defacto complainant compelled her for getting marriage with the bride groom namely Ranjith. He would oppose for the grant of anticipatory bail to the petitioners.

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

6. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, this Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned (*)**Special Court for Exclusive Trial of cases under POCSO Act, Theni** on condition that the petitioners shall execute a bond



for a sum of Rs.10,000/- (Rupees Ten Thousand only) each to the 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 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 everyday at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation;

[c] the petitioners shall not tamper with the 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 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]***; and;

[f] if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
12/01/2023

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**(*)Amended as per order of this Court
dated 08/02/2023 in Crl.M.P.(MD)
Nos.2195 and 2278 of 2023 in Crl.O.P.
(MD)Nos.315 & 318 of 2023**

**Time is extended by two weeks from the
date of receipt of copy of this order.**

/03/2023

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

CM



To

(*) To be substituted with the order which already depatched on
01/02/2023

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1. The Special Court for Exclusive Trial
of cases under POCSO Act,
Theni
- 2 The Judicial Magistrate, Bodynayakkanur
3. Do Through The Chief Judicial Magistrate, Theni
3. The Inspector of Police,
Bodi All Women Police Station,
Theni District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s. JERIN MATHEW M, Advocate (SR-2019)

ORDER

IN

CRL OP(MD) Nos.315 and 318 of 2023

Date : 12/01/2023

MGJ/SAR-III(09.03.2023) 4P 7C