



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/01/2023

WEB COPY

PRESENT

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

CRL OP(MD) . No.1125 of 2023

1. S.Alexpandi

2. A.Sivaji

... Petitioners/Accused No. 1 to 2

Vs

The State rep.by,
The Inspector of Police,
Usilampatti All Women Police Station,
Madurai District.
In Crime No.29 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Sakthirao.G,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.29 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

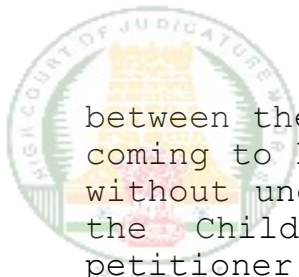
The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 9 and 10 of Prohibition of Child Marriage Act and Sections 5(l), 5(j) (ii) and 6 of POCSO Act in Crime No.29 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the de-facto complainant Dhanalakshmi, who is working as Extension Officer, Social Welfare Department, Usilampatti, Madurai, is that the first petitioner had married the minor victim girl, who is aged 17 years and committed penetrative sexual assault, due to which, she became five months pregnant. Hence, the case.

3.The learned counsel for the petitioners would submit that the petitioners and the victim girl are known to each other from their

<https://www.crl.op.md>

He would further submit that there was a love affair



between the first petitioner and the victim girl, the family is coming to know of the love affair, had performed the child marriage, without understanding the consequences and rigours of POCSO Act and the Child Marriage Restraint Act and thereafter, the first petitioner and the victim girl had lived together as a husband and wife, due to which, she became pregnant. He would further submit that the petitioners hail from the lower strata of the Society and that they were unaware of the rigours of law. He would further submit that the victim girl has also been secured and the statement has also been recorded from her under Section 164 of Cr.P.C., wherein, she has stated that with her consent only, the marriage was performed and that she was living along with the first petitioner as husband and wife. He would further submit that the family members have also made an arrangements to the marriage of the first petitioner, after the victim girl attaining marriageable age and the victim is now been taken care by her parents. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the first petitioner is aged about 23 years, had love affair with the victim girl, who is aged about 17 years, and the marriage was performed by the relatives and that the victim is now five months pregnant. He would further submit that the statement has also been recorded from the victim girl under Section 164 of Cr.P.C. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5.Heard. Perused the materials available on record including the First Information Report and also the statement recorded from the victim girl under Section 164 of Cr.P.C.

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

7.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 District Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two 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 Judge 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 concerned Judge/Trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.



[b] the petitioners shall report before the respondent, daily at 10.30 a.m., 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 concerned Judge/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 concerned Judge/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.

sd/-

23/01/2023

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/02/2023

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

SJI

TO

1 THE DISTRICT JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
MADURAI.

2 THE INSPECTOR OF POLICE,
USILAMPATTI ALL WOMEN POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to M/S.SAKTHIRAO.G Advocate SR.No.990(I)

ORDER

IN

CRL OP(MD) No.1125 of 2023

Date :23/01/2023