



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**CRL.O.P(MD)No.1676 of 2023

WEB COPY

1.Kamsala Lakshmi Devi
2.Kamsala Ramaiah

...Petitioners/Accused rank not known

-vs-

The State represented by
The Inspector of Police,
All Women Police Station,
Aruppukottai, Virudhunagar District.
(Cr.No.23 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.23 of 2022 on the file of the respondent Police.

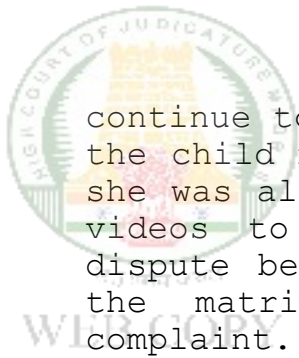
For Petitioners : Mr.S.M.Anantha Murugan

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

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 5(1) r/w 6, 15, 16 and 17 of POCSO Act, 2012 and Sections 9 and 10 of Prohibition of Child Marriage Act, in Crime No.23 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that she has completed 12th standard and that while she was studying +1, her relative one Muthupandi was speaking with her in cellphone. While so, during 2021, the said Muthupandi, who was working in Andrapradesh, had come to the native place and that he had requested for sexual favour and she has refused for the same and during April 2022, she had gone to Andrapradesh to the relative's house, during such time, the said Muthupandi had taken obscene videos of her, while she was taking bath and later, he had sent it to her cellphone and threatened her that he would circulate it to so many other persons and thereafter, he had also threatened her and blackmailed her to remove the dress and come on video call. Later, he had compelled her to marry her maternal uncle one Karthick (the son) and also told her that after marriage, he will



continue to have relationship with her and later, on his co-1, the child marriage was performed with the petitioners' son and when she was along with her husband, the accused Muthupandi had sent the videos to the said Karthick, thereby, there was a matrimonial dispute between them and the said Karthick had sent her away from the matrimonial home after committing cruelty. Hence, the complaint.

3.The learned Counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that the petitioners are the parents of one Karthick, who is the actual victim in this case. The main accused in this case one Muthupandi had taken obscene videos of the victim girl and he had blackmailed and threatened her and on his compulsion, the victim had agreed for the marriage with the petitioners' son and after marriage, he had taken her to Andrapradesh. While they were in Andrapradesh, the main accused Muthupandi had sent the obscene videos to the mobile phone of the petitioners' son and that the petitioners' son being shocked over the same, had questioned the victim and there was a quarrel between them and thereafter, the petitioners coming to know about the earlier incident, had sent her back to the native place and at the native place, the victim has given such a complaint. He would further submit that the petitioners' son unknowingly being the maternal uncle of the victim had agreed for the marriage thinking that the victim was more than 18 years. He would further submit that the major part of the investigation is over and the petitioners also understand that the victim girl during the course of investigation, has given a statement under Section 164 of Cr.P.C., wherein, she has not made any serious allegations against the petitioners and the main allegations are made only against the said Muthupandi, who is also a close relative of the victim. He would submit that the petitioners' son, Karthick has been granted bail by this Court in Crl.O.P.(MD)No.95 of 2023, dated 05.01.2023 and thereby, he would pray for anticipatory bail to the petitioners.

4.The learned Government Advocate (crl.side) would submit that the victim is presently 18 years old. When she was a minor, one Muthupandi had taken obscene video of her, while she was taking bath and threatened her and blackmailed her and later on his compulsion, the victim was compelled to marry the petitioners' son and thereafter, the petitioners' son had also sexual intercourse with her and later, coming to know about the obscene video, the petitioners son and the first petitioner after committing matrimonial cruelty had sent her out of the matrimonial home. He would further submit that the statement of the victim has also been recorded under Section 164 of Cr.P.C. and hence, he opposed for grant of anticipatory bail to the petitioners.

5.Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available



on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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 Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur, on condition that the petitioners shall execute 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 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 police everyday at 10.30 a.m., for a period of one week, thereafter, as and when required on issuance of summons.

[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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/01/2023

/ TRUE COPY /

/02/2023

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

TO

- 1 THE JUDGE, SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.



CRL.O.P(MD)



23

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

+1 CC to M/s.S.M.ANANTHAMURUGAN, Advocate (SR-1434[I] dated
30/01/2023)

ORDER

IN

CRL OP(MD) No.1676 of 2023

Date :30/01/2023

SS/ /SAR-I/04/02/2023/ 4P 5C