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CRL OP(MD).



23

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

Date : 07/02/2023

PRESENT

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

CRL OP(MD) . No.2411 of 2023

1. Veerusinnu @ Veerachnnammal
2. Nallathambi
3. Sangammal @ Sakammal

... Petitioners/Accused 2,3 and 4

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Thenkarai Police Station,
Theni District.
Crime No.439 of 2022.

... Respondent/Complainant

For Petitioners : M/s.Wins T, Advocate

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

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

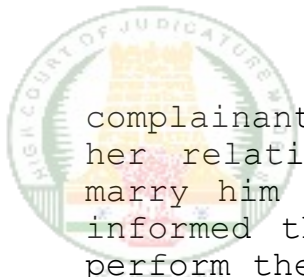
PRAYER :-

For Anticipatory Bail in Crime No.439 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 9 of the Tamil Nadu Prohibition of Child Marriage Act, 2006 and Sections 5(1), 5(j)(ii), 17 and 6 of POCSO Act, 2012, in Crime No.439 of 2022, on the file of the respondent police, seek anticipatory bail.

<https://www.mhc.tn.gov.in/judis>. The case of the prosecution as per the defacto



complainant XXX, aged about 17 years is that she was in 1st year of her relative Veeramani/A1. The said Veeramani compelled her to marry him and she refused that she is under aged. Therefore, he informed the same to his parents and both the parents decided to perform the marriage between them on 17.11.2021. Thereafter, A1 had forcibly committed sexual intercourse with the victim several times, thereby, she became pregnant and delivered a child. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent, first petitioner is the mother of A1 and second and third petitioners are parents of victim. Due to love affair between the victim and the first accused. The victim became pregnant and the petitioners without understanding the rigors of Child Marriage Act, they performed marriage between A1 and the victim. The main accused/A1 has already been enlarged on bail. Hence, prays to enlarge them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the first accused had committed the penetrative sexual assault on the victim and the petitioners had performed marriage between them. Considering the gravity of the offence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the FIR, 164 Cr.P.C. statement of the victim.

6.Taking into consideration the facts and circumstances of the case and considering the 164 Cr.P.C statement of the victim and also considering the overt act attributed against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is 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 **Sessions Judge, Fast Track Mahila Court, Theni**, 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 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 conditions that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge may obtain a copy of their Aadhaar 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, on every Saturday at 10.30 a.m., until further (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 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 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]**; and;

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

sd/-

07/02/2023

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

PNM

TO

1. The Sessions Judge, Fast Track Mahila Court, Theni
2. The Inspector of Police,
All Women Police Station,
Thenkarai Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S.WINS T Advocate SR.No.1985(I)

ORDER

IN

CRL OP(MD) No.2411 of 2023

Date :07/02/2023

VA/VR/SAR/1/13.02.2023/3P/6C