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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/03/2023

PRESENT

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

CRL OP(MD) . No.2398 of 2023

1. Sivakumar,

2. Reka,

3. Siva,

4. Parthiban,

5. Rathna @ Nagarani,

... Petitioners/Accused Nos. 1 to 5

Vs

The State Rep by
The Inspector of Police,
Awps Keelakarai Police Station,
Ramanathapuram District.
Crime No. 10 of 2021.

... Respondent/Complainant

For Petitioner : M/s.Anand Kumar.D,Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

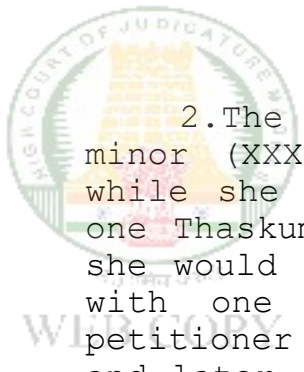
PRAYER :-

For Anticipatory Bail in Crime No.10 of 2021 on the file of the respondent Police.

[Offences amended vide order dated 14.02.2023 in Cr1.M.P.(MD)No.2679 of 2023]

ORDER : The Court made the following order :-

The petitioners/A1 to A5, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 363 of I.P.C. and Section 9 of Prohibition of Child Marriage Act, 2006 r/w Sections 5(1) and 6 of POCSO Act, in Crime No.10 of 2021 on the file of the respondent police, seek anticipatory bail.



2.The case of the prosecution as per the de-facto complaint it minor (XXXX), is that she was brought up by her grandmother and while she was studying 8th standard, she developed friendship with one Thaskumar/A6 and her parents coming to know of that suspecting she would elope with A6, have compelled her and performed marriage with one Sivakumar/the first petitioner herein and the first petitioner used to come in an inebriated condition and assaulted her and later, she had informed the said Thaskumar about the harassment and she had on 19.08.2021 eloped with the said Thaskumar. Later, he has advised her to go back and join with her parents and she had come back. Hence, the case.

3.The learned counsel for the petitioners would submit that A1 is the cousin and A2 and A3 are the parents and A4 and A5 are the uncle and aunt of the de-facto complainant. The de-facto complainant who was aged about 14 years, had developed a relationship with one Thaskumar/A6 and since it was reprimanded by the petitioners, she has given a false complaint against them and she has gone along with the said Thaskumar. Later, she was sent back by the said Thaskumar. He would further submit that the petitioners also understand that the minor victim girl during the course of investigation, has given a statement has been recorded from the victim girl under Section 164 of Cr.P.C., wherein, she has not made any allegations as against the petitioners. Hence, he would seek for anticipatory bail.

4.The learned Additional Public Prosecutor(Cri.Side) appearing for the respondent would submit that the petitioners 2 to 5 by compelling the de-facto complainant, had performed marriage with the first petitioner herein and the first petitioner used to come in an inebriated condition and assaulted her and later, she had informed the said Thaskumar/A6 about the harassment and she had on 19.08.2021 eloped with the said Thaskumar. Later, he had advised her to go back and join with her parents and she had come back and thereby, he would object for grant of anticipatory bail. However, he would also submit that the the statement of the minor victim girl has also been recorded under Section 164 of Cr.P.C.

5.Heard. Perused the materials available on record including the First Information Report and also the statement recorded from the minor 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 Judicial Magistrate No.1, Ramanathapuram, 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 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, daily at 10.30 a.m., for a period of one week and thereafter, as and when required for interrogation.

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

sd/-
01/03/2023

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE NO.I
RAMANATHAPURAM.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.



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3 THE INSPECTOR OF POLICE
AWPS KEELAKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

ORDER

IN

CRL OP(MD) No.2398 of 2023

Date :01/03/2023

PKP/VR/SAR-3/(08.03.2023)/ 4P/ 5C