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CRL OP(MD).



23

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

Date : 22/02/2023

PRESENT

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

CRL OP(MD) . No.2873 of 2023

1. Latha

2. Gurusamy

3. Sutharshanan

... Petitioners 1 to 3 /
Rank Not Known

Vs

The State Represented by
The Inspector of Police,
All Women Police Station
Sivagangai,
Sivagangai District.
(In Crime No.22 of 2022)

... Respondent/Complainant

For Petitioners : R.Karunanidhi, Advocate

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

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

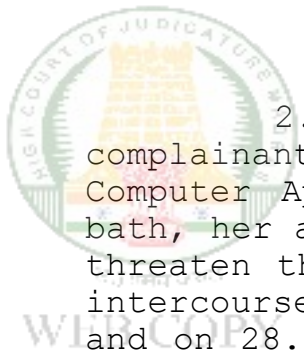
PRAYER :-

For Anticipatory Bail in Crime No.22 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 294(b), 506(i) IPC r/w 5(1), 5(j)(ii) of POCSO Act, 2012,
in Crime No.22 of 2022, on the file of the respondent police, seek
anticipatory bail.

<https://www.mhc.tn.gov.in/judis>



2. The case of the prosecution as per the complainant minor xxx is that she was studying in 12th standard in Computer Application Group. One year back, while she was taking bath, her aunt's son had taken video of that, thereafter, he used to threaten that he will upload the same in facebook and had a sexual intercourse with her many times. Due to which, she became pregnant and on 28.07.2022 the defacto complainant had informed the same to her parents and her parents along with a victim went to the house of the accused persons and questioned them. At that time, the petitioners, who are the parents and brother of A1 have abused and threatened the defacto complainant and her family members. Hence, the complaint.

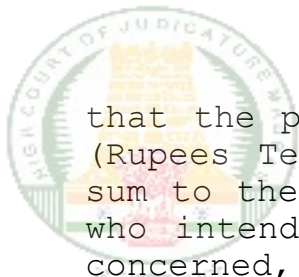
3. The learned counsel for the petitioners submitted that the petitioners are the parents and brother of A1. The petitioners are innocent and they have been falsely roped into the case. He would submit that both the families are relatives. There was a love affair between the victim and A1 and without knowing the consequences of POCSO Act, they had consensual sexual affair, thereby, the victim became pregnant. Now, the victim has delivered a child. They have also no objection in getting their son married to the victim, once she attains marriageable age and filed an affidavit in this regard. However, without the knowledge of the petitioners, the victim parents have performed marriage of A1 with the victim. The petitioners are unnecessary roped into the case. Hence, prays to release them on anticipatory bail.

4. The learned Government Advocate(Crl.Side) would submit that the first and second petitioners are parents and third petitioner is the brother of A1. Both A1 and victim are relatives. A1 had taken video of the victim, while she was taking bath and on showing the video, A1 threatened the victim and had sexual intercourse with her. Due to which, she became pregnant and now, delivered a child. When the victim's parents went to the house of A1, the petitioners and A1 have abused and threatened them. Hence, 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, 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 Judge, Special Court for POCSO Act Cases, Sivagangai, on condition



that the petitioners shall execute a bond for a sum of Rs (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., until further orders;

(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/-

22/02/2023

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/03/2023

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

PNM

TO

1. The Judge, Special Court for POCSO Act Cases,
Sivagangai
2. Do-Through The Chief Judicial Magistrate,
Sivagangai District.
3. The Inspector of Police,
All Women Police Station
Sivagangai, Sivagangai District.



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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-2703[I] dated 22/02/2023)

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ORDER

IN

CRL OP(MD) No.2873 of 2023

Date :22/02/2023

ED/BUC/SAR-1 (03/03/2023) 4P 6C