



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P(MD)No.3643 of 2023

WEB COPY

Praveena

...Petitioner /Accused 2

-vs-

The State represented by
The Inspector of Police,
All Women Police Station,
Oomachikulam Police Station,
Madurai City.
(in Cr.No.74 of 2022)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of her arrest by the respondent Police with respect to Cr.No.74 of 2022.

For Petitioner : Mr.R.Rajan

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 10, 17 and 21(1) of POCSO Act in Crime No.74 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that he was married to Praveena on 12.09.2010. It was a love marriage. Thereafter, he is living at Chennai for the past five years and two children were born in his in-laws house at Madurai. While so, during the year 2015, he shifted to Madurai and he was living there with his wife. Thereafter, his wife developed friendship with her ex-class mate, one Raheem through social media and in his absence, his wife continued the close relationship with him and they developed illegal intimacy and the said Raheem used to come to his house often and he had sexually abused his children in the presence of his wife. The further allegation is that later the two children were brought to his house and at that time, the children were found to be very weak and the children have informed that the said Raheem had misbehaved with them. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given due



to a matrimonial dispute. He would also submit that the marriage between the petitioner and de-facto complainant was a love marriage and later, the de-facto complainant had abused and harassed the petitioner and had driven her out of the matrimonial home and the petitioner is presently living with her children in her mother's house. While so, the de-facto complainant/husband has instigated the children to give a false statement, based on that, a false complaint has been registered originally by the Sembiam All Women Police Station and later, the case was transferred to Tallakulam All Women Police Station and now the case was transferred to the respondent Police. While so, the de-facto complainant himself has handed over the custody of the children to the petitioner. If only the allegation made are true, the de-facto complainant would not hand over the custody of the children to the petitioner and the present complaint has been given only to pressure the petitioner to give divorce and hence, he would seek for anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the wife of the de-facto complainant and she had separated from him and she is staying along with her children at Madurai. During such time, as per the complaint, she developed illegal intimacy with one Raheem, who had used to come to her house and had misbehaved with the children in her presence. Further, he would submit that the investigation is pending and he would also submit that statements have also been recorded from the victim girls under Section 164 Cr.P.C. He would strongly object to grant anticipatory bail to the petitioner.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R. and the statements recorded from the victim girls under Section 164 Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Madurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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 petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
24/02/2023

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/03/2023

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

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To

1.The Special Judge for Exclusive Trial of Cases under POCSO Act,
Madurai.

2.The Inspector of Police,
All Women Police Station,
Oomachikulam Police Station,
Madurai City.

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

+1 CC to M/s.R.RAJAN, Advocate (SR-2885[I] dated 24/02/2023)

order
in

CRL.O.P(MD)No.3643 of 2023
Date : 24.02.2023

NA/SAR-2/08.03.2023/3P/5C

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