



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2023

PRESENT

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

CRL.O.P (MD) No.3539 of 2023

1.Velmurugan

2.Sutha

... Petitioners/Accused Nos.2 & 3

-vs-

State represented by
The Inspector of Police,
Austinpatti Police Station,
Madurai District.
(Cr.No.343 of 2021)

... 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.343 of 2021 on the file of the respondent Police.

For Petitioners	: Mr.T.Palanisamy, Advocate
For Respondent	: Mr.A.Albert James Government Advocate (Crl.side)

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 9 and 10 of Child Marriage Act r/w Sections 5(i), 6, 16 and 17 of POCSO Act in Crime No.343 of 2021 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Yogammal, Rural Welfare Officer, Tiruparankundram Union, is that the accused had illegally performed child marriage for a minor girl. Hence, the complaint.

3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given due to previous enmity in the village. He would also submit that a statement has been recorded from the victim girl under Section 164 Cr.P.C., wherein, she has stated that she was in love with one Gopiraj and that other than the parents agreeing to perform the marriage with the said Gopiraj, no marriage was performed. He would also submit that the victim is aged 17 years and subsequently, the victim girl is also missing and on the complaint given by the petitioners, a case in Cr.No.43 of 2023 has been registered. Hence, he would seek for anticipatory bail to the petitioner.



4.The learned Government Advocate (crl.side) would submit that on the complaint given by the Rural Welfare Officer, Tirunparankundram, that the petitioners have illegally performed child marriage of the victim girl, the case was registered in Cr.No.343 of 2021. During the course of the investigation, a statement was recorded from the victim, wherein, she denied the marriage. Subsequently, after one year, the victim girl has eloped with one Veerapandi, in respect of which, a case in Cr.No.43 of 2023 has been registered. He would object for anticipatory bail to the petitioner.

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 learned Judicial Magistrate, Thirumangalam, Madurai, 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 two weeks, thereafter every Saturday at 10.30 am until further orders.

[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]**.



CRL.O.P(MD)



23

[f] If the accused thereafter absconds, a fresh FII registered under Section 229A IPC.

sd/-
28/02/2023

/ TRUE COPY /

/03/2023

WEB COPY

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

cmr

To

- 1 THE JUDICIAL MAGISTRATE, THIRUMANGALAM.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
 - 3 THE INSPECTOR OF POLICE, AUSTINPATTI POLICE STATION,
MADURAI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.T.PALANISAMY, Advocate (SR-3032[I] dated 28/02/2023)

ORDER
IN
CRL OP(MD) No.3539 of 2023
Date :28/02/2023

RS//SAR-3(14.03.2023) 3P 6C