



CRL OP(MD). No.21364 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Madhavakannan

2. Kalidass

3. Pappathi

... Petitioners/ Accused No.1 to 3

Vs

State Rep.by

The Inspector of Police,

Ayikudi Police Station,

Tenkasi District.

Crime No.99/2023.

... Respondent/Complainant

For Petitioners : M/s.T.Indrachithu, Advocate.

For Respondent : Mrs.M.Aasha, Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.99/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/ Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 12 r/w. 11(1) of POCSO Act and Sections 294(b), 323, 355 IPC in Crime No.99 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that first petitioner used to tease the daughter of



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the defacto complainant and hence, there was a dispute between them. On 21.09.2023, the first petitioner abused the daughter of the defacto complainant in filthy language and when the same was questioned by defacto complainant, the accused persons have assaulted her. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case and hence, he seeks anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that earlier anticipatory bail petition filed by the petitioners was dismissed by this Court on 18.10.2023 in Crl.O.P(MD).No.18730 of 2023. He would further submit that based on the 164 of the Statement of Victim the petitioners herein have teased the daughter of the defacto complainant and the investigation of the case is pending.

5. On perusal of the 164 Cr.P.C., statement, it is noticed that the petitioners have teased the defacto complainant.

6.Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamendra Pratap Singh vs. State of Uttar Pradesh and others reported in



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(2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)

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4 SCC 260 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners is having permanent residents at Thirunelveli District. Hence the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7.In view of the above, this Court is inclined to grant anticipatory bail to the petitioners. 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 POCSO Special Sessions Judge, Thirunelveli on condition that the petitioners shall execute own bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 :



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[a] the petitioners shall appear before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
28/11/2023

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/12/2023

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

trp



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TO

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1 THE POCSO SPECIAL SESSIONS JUDGE, TIRUNELVELI.

2 THE INSPECTOR OF POLICE, AYIKUDI POLICE STATION, TENKASI DISTRICT.

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

+1 CC to M/s.T.INDRACHITHU, Advocate (SR-16972[I] dated 28/11/2023)

ORDER

IN

CRL OP(MD) No.21364 of 2023

Date :28/11/2023

RS/SKN/SAR-(06.12.2023) 5P 5C

Madurai Bench of Madras High Court is issuing
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