



CRL OP(MD). No.22283 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/12/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

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1. Pandeeswaran @ Eswaran,
2. Vijayajothi @ Nagavijayajothi,
3. Pitchaimani,
4. Prabhu,
5. Jeyalakshmi @ Anu,
6. Murugeswari,
7. Manikandan,
8. Malavika,
9. Nagaraj,
10. Kaleeswari @ Naga Nandhinidevi,

... Petitioners/ Accused Rank Not Known

Vs

The Inspector of Police,
All Women Police Station,
Bodinayakanur,
Theni District.
Crime No.44/2023.

... Respondent/Complainant



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For Petitioners: Mr.M.DURAIMURUGAN,
Advocate.

For Respondent : Mr.RMS.SETHURAMANA,
Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No.44/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 9, 10 of Prohibition of Child Marriage Act, 2006 and Sections 341, 323, 294(b) and 506(i) of IPC @ Sections 9, 10 of Prohibition of Child Marriage Act, 2006, and Sections 3(a), 4, 5(1), 6, 17 of POCSO Act, 2012 and Section 366, 341, 323, 294(b) and 506(i) of IPC @ Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006 and Sections 3(a), 4, 5(1), 6, 17 of POCSO Act, 2012, in Crime No.44 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the victim aged about 17 years. The petitioners herein are the parents and relatives of the defacto complainant. One Thirupathirajan was married to the minor victim girl on 24.02.2023 without getting consent from the victim. In such circumstances, the petitioner has illegal intimacy with another girl. Hence, the victim girl lodged a complaint before the respondent police. Hence, the case.



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3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that the petitioners herein are all family members. The said Thirupathirajan and his family members forcibly took away the victim girl and performed marriage without getting consent from the victim girl and her family members. Hence, he seeks anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that investigation is not yet completed and no previous case is pending against the petitioners.

5.Considering the nature of allegations levelled as against the petitioners and 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 Kamlendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994)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 are having permanent residence at Theni 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



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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.

6.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 Special Court for POCSO Act Cases, Theni. on condition that the petitioners shall execute a own bond 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 :

[a] the petitioners shall affix his photograph 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 trial Court on summons.

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



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

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

sd/-
12/12/2023

/ TRUE COPY /

/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO
1 THE JUDGE,
SPECIAL COURT FOR POCSO ACT CASES, THENI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
BODINAYAKANUR,
THENI DISTRICT.

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



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+1 CC to M/s.M.DURAIMURUGAN, Advocate (SR-17707[I] dated 13/12/2023)

ORDER
IN
CRL OP(MD) No.22283 of 2023
Date :12/12/2023

SA/DD/SAR. /20.12.2023/6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.