



CRL OP(MD). No.22534 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.22534 of 2023

1. Mayandi

2. Pasuvathy @ Pasupathy

... Petitioners/ Accused Rank not known

Vs

The Inspector of Police,
Kadamalaikkundu Police Station,
Theni District.
(In Crime No.465 of 2023).

... Respondent/Complainant

For Petitioners : Mr.Vikram S.,
Advocate.

For Respondent : Mr.R.M.S.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime no.465 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under (*) Section 9, 10 of child Marriage Act and



Sections 5(1),5(m)(ii) and 6 of POCSO Act, 2012 in Crime No.465 of 2023 on the file

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of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the parents of the child had performed marriage to their child who is minor, hence the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them, hence he seek anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that parents of the child had performed marriage to their child who is minor hence he objected to grant anticipatory bail to the petitioners.

5.It is reported that it is case of child marriage and the petitioners herein are only parents. 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 (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 origine 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 residents at Theni District. Hence the principles stated in Hussainara Khatoon & Ors vs. Home



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Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration.

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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, they can safely be released on their 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 Exclusively trial of cases under POCSO Act Cases, Theni District 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 :

[a] the petitioners shall affix his photograph and Left Thumb Impression in the 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 receipt of summons



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[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].

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

sd/-
14/12/2023

(*)(Amended as per order of this Hon'ble Court in CRL MP(MD).126/2024 in CRL OP (MD).22534/2023 Dated 08/01/2024 by MDI)

Time is extended for a period of two weeks to comply the conditions imposed upon the petitioner in CRL OP(MD)No.22534 of 2023 dated 14.12.2023.

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/01/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV



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TO

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TO BE SUBSTITUTED WITH THE ORDER ALREADY DESPATCHED ON
29/12/2023

- 1 THE JUDGE, SPECIAL COURT FOR
EXCLUSIVELY TRIAL OF CASES UNDER POCSO ACT CASES,
THENI DISTRICT.
- 2 THE INSPECTOR OF POLICE
KADAMALAIKUNDU POLICE STATION,
THENI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC TO MR.S.VIKRAM, ADVOCATE, SR-384[I] DATED 09/01/2024

ORDER IN
CRL OP(MD) No.22534 of 2023
Date :14/12/2023

SS/JGB/SAR- /27/12/2023/5P/4C
RS/JGB/SAR. (19/01/2024) 5P/5C

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