



CRL OP(MD). No.16012 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/09/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

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1. Petchimuthu,

2. Pechiyammal,

... Petitioners/ Accused No.1&2

Vs

The State of Tamilnadu,
Rep by the Inspector of Police,
Awps - Valliyoor,
Tirunelveli District.
Crime No.34 of 2024..

... Respondent/Complainant

For Petitioners : Mr.D.S.Haroon Rasheed,
Advocate.

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

PETITION FOR ANTICIPATORY BAIL Under Sec. 482 BNSS

PRAYER :-

For Anticipatory Bail in Crime No.34 of 2024 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

The petitioners/ A1 & A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 5(1) & 6 of Protection of Child from Sexual Offences Act, 2012 and 296(b) & 131 of BNS, in Crime No.34 of 2024, seek anticipatory bail.

2.The case of the prosecution is that the petitioner had committed penetrative sexual assault upon the victim girl, who is aged about 16 years by giving a false promise that he would marry her. Hence, the complaint.

3.Heard both sides.

4. The learned counsel for the petitioner would submit that even though the child has given a statement under Section 164 Cr.P.C., subsequently, she has turned hostile and she has given her representation to the Presiding Officer of the Mahila Court, whereunder, she has candidly admitted that since third persons have brought her notice that suspecting her, the second accused is going on speaking to the villagers about the character of the victim child, the victim child gave a false



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complaint, and therefore, he would submit that anticipatory bail should be granted to both persons and in fact, the Investigating Officer should conduct further investigation based on the subsequent representation made by the child.

5. I have considered the said submissions made by the learned counsel for the petitioners.

6. Whether the child has given a false complaint or whether it is retracting from the original statement are all matters for investigation. First, as far as the present petition for anticipatory bail is concerned, considering the nature of the allegations originally made in the 164 Cr.P.C., statement, I am inclined to grant anticipatory bail to the second petitioner, who is the mother of the prime accused/first petitioner, against whom the allegation is that she gave a blow on the cheek of the victim child.

7. As far as the first petitioner is concerned, *prima facie* the allegations were made about the penetrative sexual assault, I'm not inclined to enlarge the first petitioner on anticipatory bail. Hence, this petition is dismissed as against the first petitioner is concerned.



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8. Accordingly, the petition is partly allowed and the second petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Court for POCSO Act Cases, Tirunelveli, on condition that the second 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the second 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 second petitioner shall report before the respondent police daily at 10.30 a.m, for a period of three weeks and thereafter, as and when required for interrogation;

(c) the second petitioner shall not tamper with evidence or witness either during investigation or trial;



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(d)the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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]*; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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

DSS



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TO
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- 1 THE JUDGE, SPECIAL COURT
FOR POCSO ACT CASES, TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE,
AWPS - VALLIYOOR,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.16012 of 2024
Date :24/09/2024

SS/MMS/SAR- /16/10/2024/6P/4C

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