

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9408 of 2020

Radha
W/o.Selvaraj,
16B, Vilachery Road,
Pasumalai,
Thirupparankundram,
Madurai 625004.

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Anuppapalayam Police Station,
Thirupoor District.
(Crime No.2400 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of her arrest
in Crime No.2400 of 2020, dated 09.06.2020 on the file of the
respondent police.

For Petitioner : Mr.S.Sivaprakash

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

The petitioner, who apprehends arrest at the hands of the
respondent police for the offences punishable under Sections 363 and
506(2) of I.P.C, in Crime No. 2400 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that on 24.04.2019, the
accused persons A1 to A4, viz., Selvaraj, Radha, Rajkumar and Karthi
@ Ashok, came to the de-facto complainant's home and kidnapped her
girl child aged about 3 years. Thereafter, the accused persons were
trying to give the child for adoption to a third person. It is
further alleged that on 05.06.2020, de-facto complainant contacted
Selvaraj through phone and asked to him return her daughter, but the
baby was already handed over to one Karthi @ Ashok, who is a friend
of Rajkumar. Further, he threatened that he will murder both the de-
facto complainant and her husband. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the
petitioner was arrayed as A2 in this case. He further submitted that
the de-facto complainant went out of her home and married one
Lingaraj and gave birth to a male and a female children. As the de-

facto complainant was starving for food, she came to the first accused's house on 25.07.2017 and handed over the girl child to him. Thereafter, on 16.03.2019, the de-facto complainant took the girl child in order to sell her to some other person. A complaint was lodged on the file of the Thallakulam All Women Police Station, Madurai. Thereafter, the child was secured and handed over to the petitioner. Hence, the charge of kidnapping would not attract on the accused persons and they had only saved the child. He further submitted that insofar as A1, A2, and A3 are concerned, they were already arrested and released on bail.

4. The learned Additional Public Prosecutor would submit that on 24.04.2019, the accused persons came to the de-facto complainant's house and kidnapped the girl child and also tried to give her as adoption to a third person. In this regard, A1, A3 and A4 were arrested and subsequently released on bail. Insofar as the petitioner is concerned, she is the wife of the first accused and she had also actively involved in the crime. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is seen from the FIR that the de-facto complainant's daughter was kidnapped by the petitioner and other accused on 24.04.2019 and tried to give the child as adoption to a third party. Whereas according to the petitioner, the child was originally handed over to the petitioner, since the de-facto complainant was starving for food. Thereafter, the de-facto complainant took the child from the house and tried to sell her to a third party. Hence, the petitioner and other accused persons lodged a complaint before the Thallakulam All Women Police Station, Madurai. Thereafter, the girl child was secured and handed over to the petitioner. It is also seen that the younger brother of the de-facto complainant filed GWOP petition and O.P.No.1140/2020 on the file of the Madurai District to appoint him as legal guardian of the minor child.

6. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate III, Thiruppoor, on condition that the 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 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 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 petitioner shall report before the respondent police as and when required for interrogation.

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

[d] the petitioner/s 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 petitioner in accordance with law as if the conditions have been imposed and the 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].

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

-sd/-

30/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.III, THIRUPPOOR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ANUPPARPALAYAM POLICE STATION,
THIRUPPOOR DISTRICT.

CC to M/S.S.SIVAPRAKASH Advocate on payment of necessary charges

CRL OP.9408/2020

Date :30/06/2020

rd 28/07/2020