

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.13186 of 2020

A. Rajapunnisha

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Nagoor Police Station,
Nagapattinam District.
(Cr.No.1145 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of her arrest, concerned in Crime No.1145 of 2020, on the file of the respondent police.

For Petitioner : Mr. J. William Shakeshpere

For Respondent : Mr.M. Mohammed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Section 81 of the Juvenile (Care and Protection of Children) Act, 2015 in Crime No.1145 of 2020, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant Probation Officer is that he received a information that the first accused had illegally given his child by an adoption to the petitioner. Based on the complaint, a case was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the first accused are relatives. The first and second accused are the husband and wife. The first accused due to poverty, had handed over his child to the petitioner and the petitioner without understanding the consequences, had taken the child. Later based on the complaint, the child has been restored and handover to the parents. He would further submit that the petitioner will appear before the respondent police for any enquiry. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has illegally adopted a child. He would submit that now the child has been recovered and custody has been restored to the parents. He would further submit that the investigation is pending. However, he opposed for grant of bail to the petitioner.

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

6. Accordingly, the petitioner is 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 Judicial Magistrate No.II, Nagapattinam, on condition that each of the petitioners shall execute a separate 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 shall not tamper with evidence or witness either during investigation or trial.

[d] the 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

7. With the above direction, this Criminal Original Petition is ordered.

-sd/-
28/08/2020

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.

1 THE JUDICIAL MAGISTRATE-II,
NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NAGOOR POLICE STATION,
NAGAPATTINAM DISTRICT,
TAMILNADU.

CC to M/S. J.WILLIAM SHAKESPHERE Advocate on payment of
necessary charges

CRL OP.13186/2020

सत्यमेव जयते Date :28/08/2020

TA-22/09/2020

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