

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.18110 of 2020

Suresh

... Petitioner

Vs.

State represented by the Inspector of Police,
Tiruppur Rural Police Station,
Tiruppur City.
(Crime No.1362 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1362 of 2020 on the file of the respondent police.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 25.09.2020 for the offence punishable under Section 364(A) of IPC, in Crime No.1061 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, who is a building contractor, is that the petitioner was working under him. Since, the defacto complainant had reprimanded the petitioner due to his drinking habit, the petitioner had kidnapped the defacto complainant's 3½ years old child. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner and the defacto complainant are known to each other and that there was previous enmity between them since, the defacto complainant was responsible for petitioner's wife leaving from matrimonial home. He would further submit that the petitioner in an inebriated condition antagonized with the defacto complainant, had taken away the child and later the petitioner himself had called to the respondent police and

informed the same and had handed over the child. He would submit that it is not a case of kidnap for ransom and the incident had happened since, the defacto complainant was responsible for the petitioner's wife leaving him. He would further submit that the petitioner is in custody from 25.09.2020 and that the major part of the investigation is over. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was working under the defacto complainant and that due to salary dispute, the petitioner had kidnapped the defacto complainant's 3½ years child. Further, he would submit that the child has been secured within hours. However, he opposed to grant bail to the petitioner.

5.Taking into consideration the facts and submissions made by the learned counsels and the petitioner is in judicial custody from 25.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to 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 learned Judicial Magistrate, Tiruppur and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before respondent police everyday at 10.30 a.m., until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

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

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

6.With the above directions, this Criminal Original Petition is ordered.

-sd/-
18/11/2020

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,
TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TIRUPPUR RURAL POLICE STATION,
TIRUPPUR CITY.

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

CRL OP.18110/2020

Date :18/11/2020