



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10477 of 2020

Sankar

... Petitioner/Accused No.3

Vs

State rep.by
The Inspector of Police,
Sankarankovil Town Police Station,
Tenkasi District.
Crime No.575 of 2020

... Respondent/Complainant

For Petitioner : M/s.R.J.Karthick,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.575 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 10.09.2020 for the offences punishable under Sections 109 and 315 of IPC on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner had intimacy with the first accused and due to which she became pregnant. Due to covid-19 pandemic situation the first accused was unable to abort the child and she was compelled to marry the petitioner herein with the child. The second accused being the mother of the first accused set fire on the just born male child and killed him. Hence the complaint.

3.The learned counsel for the petitioner would submit that the first accused is an immoral lady and she is a prostitute. Infact First Information Report has been registered in Crime No.01 of 2020 on the file of the All Women Police Station, Sankarankovil as against K. Subramani and others and there is specific allegation that



the first accused is a prostitute. Though the petitioner had physical relationship with the first accused he never instigated the first accused to kill the just born male child for the reason to marry her. He further submitted that the petitioner was arrested on 10.09.2020 and still he is in judicial custody, hence he may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that only because of the petitioner the first accused got pregnant. The second accused being the mother of the first accused set fire on the alive male child and killed him. He would also submit that blood samples of the petitioner and the male child was sent for DNA test and report is awaited.

5. It is seen that there are three accused in this case and the petitioner herein is arrayed as A3. The defacto complainant found the burnt male child and on enquiry it reveals that the first accused had physical relationship with the petitioner, due to which she became pregnant and on the instigation of this petitioner the second accused being the mother of the first accused had burnt the male child and killed him. On perusal of the First Information Report in Crime No. 01 of 2019, it is seen that the first accused is a prostitute and a case has been registered against her on the file of the All Women Police Station, Sankarankovil under Sections 4(2)(c), 4(2)(a), 5(1)(a) of Immoral Traffic (Prevention) Act, 1956.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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, Sankarankovil

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Vii) the petitioner shall co-operate for investigation by giving blood samples and DNA test and other medical examination.

sd/-
13/10/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE, SANKARANKOVIL.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELELI DISTRICT.
3. THE INSPECTOR OF POLICE,
SANKARANKOVIL TOWN POLICE STATION, TENKASI DISTRICT.
4. THE OFFICER INCHARGE, SUB JAIL, SANKARANKOVIL.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10477 of 2020
Date :13/10/2020

MS/PN/SAR-3/13.10.2020/3P.6C