

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.783 of 2021

Senguttuvan

... Petitioner

Vs.

State rep by

The Inspector of Police,
K-10 Koyambedu Police Station,
Chennai.

Cr.No.1097 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr. No.1097 of 2020 on the file of the respondent police.

For Petitioner : Mr. M. Rajendiran

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 09.12.2020 for the offence punishable under Sections 120(B), 109, 114, 365 and 370 of IPC and Section 87 r/w. 81 of JJ Act in Crime No.1097 of 2020, seeks bail.

2. Totally, there are 6 accused and the petitioner is A3. The case of the prosecution is that the petitioner, who is a broker, said to have approached A2 seeking a child for adoption. Thereafter, on the date of occurrence, A1 and A2 kidnapped a 3 1/2 of months old child in the Koyambedu Market. Since the proposed purchaser refused to accept the child, they throw the child in the road side and absconded. Based on the complaint given by the parents of the child, the case has been registered against the petitioners and the petitioner was arrested on 09.12.2020. Now, seeking bail the present application has been filed.

3. The learned counsel for the petitioner would submit that the petitioner was working in the hotel. Even as per the First Information Report, A1 and A2 only kidnapped the child and they tried to hand over the child to the petitioner for selling to some third party. Since the purchaser refused to accept the child, A1 and A2 throw the child on the road side. Even as per the prosecution, this petitioner is only a mediator and he has no role to play in the offence. He is in jail from 09.12.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that this petitioner is mainly behind the offence and only at the instigation of the petitioner, A1 and A2 kidnapped the child. Now, investigation is still pending. Hence, she vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also the fact that the petitioner said to have acted as mediator between the purchaser and other accused and investigation is almost completed and also taking note of the period of incarceration suffered by the petitioner, 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 Metropolitan Magistrate-V, Egmore, Chennai, 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 the respondent police, daily 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;

(g) 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];

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

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

-sd/-

05/03/2021

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 METROPOLITAN MAGISTRATE
NO.V, EGMORE, CHENNAI

2 THE CHIEF METROPOLITA
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
K-10, KOYAMBEDU POLICE STATION,
CHENNAI

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

CC to M/S M.RAJENDIRAN Advocate on payment of necessary charges
Sr.2853

CRL OP.783/2021

Date :05/03/2021

RVR 08/03/2021

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