

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.2794 of 2021

Balamani

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Annadanapatty Police Station
Salem District.
(Crime No.2212 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of his arrest in Crime No. 2212 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. Deepan Uday

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

Totally, there are 10 accused and the petitioner is arrayed as A6. The petitioner apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 363 of I.P.C. and 81, 87 of Juvenile Justice (Care and Protection of Children Act, 2015), in Crime No. 2212 of 2020, on the file of the respondent police, and now, he has filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that A1 in this case is a father of child and he wanted to sell the child. Hence, he had approached A2 and A3, who are working in the Government Hospital at Erode to sell the baby. In the meantime, through this petitioner, A4 and A5 approached the above said accused and willing purchase the child for a sum of Rs.1.5 lakhs and also he has paid the amount. A2, after receipt of the money, taken a sum of Rs.30,000/- as commission and given the remaining amount to A1 and handed over the child to A4, A5 and A6. Thereafter, based on the complaint given by mother, the crime was registered against the petitioner and he has arrayed

as A6. Now, apprehending arrest, the present petition has been filed seeking for anticipatory bail.

3. The learned counsel appearing for the petitioner submitted that A1 is the main accused, who is father of child. The petitioner only accompanied A4 and A5, who wanted to buy child, except that, she has no role to play in it. He would submit that even the confession of other accused clearly shows that she has not involved in any of the transaction and she has only accompanied A4 and A5. He would submit that she is an innocent person and she is no way connected with the offence. He would submit that she has been falsely implicated as accused in this case. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that the petitioner has accompanied with A4 and A5 to buy the baby and at her instigation, A4 and A5 have purchased the child. He would submit that the other accused are arrested and released on bail. However, he opposed to grant anticipatory bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the fact that the petitioner said to have accompanied to purchase the baby for A4 and A5, now the arrested accused are released on bail, and there is no bad antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before **the learned Judicial Magistrate-IV, Salem Dt.**, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioner shall appear before the respondent police as and when required for interrogation ;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] 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]**;

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

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

-sd/-
03/03/2021

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 JUDICIAL MAGISTRATE,
NO.IV, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANNADANAPATTY POLICE STATION,
SALEM CITY DISTRICT.

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

CRL OP.2794/2021

Date :03/03/2021

TA-11/03/2021