

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3638 of 2021

1. Mrs.Alamelu
2. Chinnarasu

... Petitioners

Vs.

State by
The Inspector of Police,
Mallyakarai Police Station,
Salem District.
(Crime No.33 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.33 of 2021 on the file of respondent police.

For Petitioners : Mr.M.P.Venkatak Krishnan

For Respondent : Mrs.M. Prabavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 31.01.2021 for the offence punishable under Sections 312, 313, 109 of I.P.C. and 4 of Medical Termination of Pregnancy Act, 1971, in Crime No.33 of 2021, seeks bail.

2. Totally, there are seven accused and the petitioners are arrayed as A2 and A3. The case of the prosecution is that A1 is mother of victim girl. The victim girl has already got married and she has got two female children, and, third time, she got pregnant and while seeing ultra sound scanning, they have informed that third baby is also female child. Hence, A1 has decided to abort the fetus, and she had approached the petitioners, who are A2 and A3, they are servant of A1 and close relatives and A3 is the son of A2. He has introduced A4, who is a nurse working in the hospital, where the victim girl was admitted and wherein they have aborted, and due to lot of blood loss, her condition become serious and later she was recovered. Hence, based on the complaint given by the hospital

authorities, a criminal case has been registered against the petitioners, they were arrested and remanded to judicial custody on 31.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioners would submit that the 1st petitioner is only servant of A1. The only allegation is that she has introduced A1 to A4. He would submit that they are innocent persons and they are no way connected with the offence as alleged in the complaint. He would submit that they have been falsely implicated in the present case. Hence, he prayed to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for respondent opposed this petition on the ground that A1 is arrested and the other accused A6 and A7 are still absconding. She would submit that there is no previous case pending against the petitioners. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that, 1st petitioner has only introduced A1 to A4, there is no bad antecedents reported against the petitioners, and also considering the period of incarceration suffered by the petitioners from 31.01.2021, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate No.2, Attur, Salem Dt.**, 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 petitioners, on their release from prison, shall report before the respondent police as and when required for interrogation;**

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

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

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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

(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/-
02/03/2021

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.2, ATTUR, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MALLYAKARAI POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

+1 CC to M/S. D.ARUN Advocate on payment of necessary charges
SR.NO.2642

CRL OP.3638/2021

Date :02/03/2021

TA-03/03/2021

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