

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4139 of 2021

1.Subramani
2.Selvi

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
All Women Police Station,
Attur, Salem District.
(Crime No. 3 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.3 of 2021 pending investigation on the file of the respondent.

For Petitioners : Mr.E.Kannadasan

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 01.02.2021 for the offences punishable under Sections 312, 313 of IPC in Crime No.3 of 2021, seeks bail.

2. Totally there are 3 accused and the petitioners are arrayed as A1 and A2. The case of the prosecution is that the defacto complainant is the daughter of the petitioners, and she married other community person, namely, Perumal, against the wishes of the petitioners/parents. Thereafter, she became pregnant and went to her parental home for delivery. At that time, both the petitioners compelled her to abort the foetus and admitted her in a private hospital, owned by the third accused, where, they aborted the child. Based on the complaint given by the defacto complainant a crime has been registered and the petitioners were arrested on 01.02.2021. Now, seeking bail, the present application has been filed.

3. The learned counsel appearing for the petitioners would submit that the petitioners never compelled the defacto complainant to abort the foetus. Only the defacto complainant has requested the petitioners to abort the foetus on the ground that the baby in the womb has some medical issues. They never intended to abort the foetus and seek bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the defacto complainant is the daughter of the petitioners. She married another community person against their wish, and they have aborted the foetus of the defacto complainant with the help of A3. Now investigation is almost completed and A3 is still absconding. Hence, she opposed to grant bail to the petitioners.

5. Considering the said facts and circumstances of the case and the fact that investigation in this case is almost completed and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners 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) two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Attur, 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 as and when required for interrogation;

(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/-
10/03/2021

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.I, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ATTUR, SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN, SALEM.

+1 CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.NO.3130

CRL OP.4139/2021

Date :10/03/2021

TA-11/03/2021

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