IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.05.2021

CORAM :

THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P.No.8236 of 2021

1. Vijayakumar
2. Prabhakaran ... Petitioners

Vs.

State Rep. by
The Sub-Inspector of Police,
Attur Rural Police Station,
Salem District.
(Crime No.125 of 2021) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail pending investigation in Crime No.125 of 2021 on the file of the Respondent Police.

For Petitioners : Mr.B.Kumarasamy

For Respondent : Mr.Charles Premkumar,
Government Advocate

O R D E R

(The case has been heard through video conference)

Heard the learned Counsel on either side.

2. The Petitioners are figuring as A2 and A3 in Crime No.125/2020 registered on the file of the respondent for an offence under Section 'Girl Missing' altered into Section 366 (A) r/w.109 of IPC and they are in custody since 16.04.2021.

3. Learned Counsel for the petitioners states that the victim girl has eloped with the 1st accused and they are yet to be secured. The petitioners are only the friends of the 1st accused and it is only on that basis, they have been implicated.

4. Learned Government Advocate, on instructions, would oppose the grant of bail by pointing out that since the victim is yet to be secured, the bail petition should not be entertained.

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5. Though the victim girl is yet to be secured, I am of the view that the continued incarceration of the petitioners is not going to serve any purpose.

6. At this stage, the learned Counsel for the petitioners on instructions would state that till the victim is secured, the petitioners will appear before the respondent police at 5.00 p.m. every day. The learned Counsel for the petitioners also gives further undertaking that he will not apply for relaxation of any condition. Therefore, bail is granted subject to the following conditions:

(a) 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.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 petitioners shall report before the respondent police every day at 05.00 p.m. for a period of two weeks and thereafter 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 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; and

(i) the learned Counsel for the petitioners shall give an undertaking that he will not apply for relaxation of any condition.

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

-sd/-
05/05/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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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 DISTRICT. (FOR INFORMATION)

3 THE SUB-INSPECTOR OF POLICE,
ATTUR RURAL POLICE STATION,
SALEM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE PUBLIC PROSECUTOR
HIGH COURT OF MADRAS.

+1 CC to M/S.B.KUMARASAMY Advocate on payment of necessary charges SR NO. 5775

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CRL OP.8236/2021

Date :05/05/2021

rg.06.05.2021

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