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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.18736 of 2021

Poomani

... Petitioner

Vs.

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

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.33 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.A.C.Manibharathi

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrested on 07.07.2021 and remanded to judicial custody for the offences under Sections 312, 313, 109 of IPC r/w Sec 4 of Medical Termination of Pregnancy Act 1971, in Crime No.33 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner has acted as fake doctor. Further, the victim namely Saranya became pregnant. On 17.01.2021 the accused persons went to the victim house along with USG Machine and assessed the foetus as male or female and disclosed the same to her. Further, the mother of the victim has taken her to the petitioner for abortion of the foetus and due to that the victim got severe bleeding which leads her to the fatal situation and she was admitted in the hospital. The petitioner is arrayed as A7 and he had aborted the foetus. Hence, the complaint.



3. The learned counsel for the petitioner submitted that the petitioner is in no way connected with the alleged offence and she has been falsely implicated in this case and the petitioner has been in jail from 07.07.2021. He further submitted that earlier, the petitioner filed the anticipatory bail application before this Court and the same was dismissed. The learned counsel, on instructions, would further submit that the petitioner, on her own volition, without prejudice to her rights, is ready to deposit the amount of Rs.50,000/- Demand Draft drawn in favour of the Victim Saranya. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that there is no previous case pending as against the petitioner. However, he vehemently opposed for grant of bail to the petitioner.

5. Considering the period of incarceration suffered by the petitioner and there is no previous case pending against the petitioner and further the petitioner on her own volition and ready to deposit a sum of Rs.50,000/- to the victim, this Court is inclined to grant bail to the petitioner with certain conditions:

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Judicial Magistrate Court No.II, Attur, and on further condition that:

(a) the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) Demand Draft drawn in favour of the victim Saranya, within a period of two weeks from the date of receipt of a copy of this order and produce receipt at the time of execution of sureties.

(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 report before the respondent police, daily at 10.30 a.m. until further orders;

(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]; and;

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

-sd/-

08/10/2021

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.II, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MALLIYAKARAI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. A.C.MANIBHARATHI Advocate on payment of necessary charges SR.NO.11258

CRL OP.18736/2021

Date :08/10/2021

RW 08/10/2021