



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 30/06/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.7860 of 2021

Pathampriyal

... Petitioner/Accused No.6

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Tiruppathur, Sivagangai District.
Crime No.05/2021.

... Respondent/Complainant

For Petitioner : Mr.P.Mani Anandh,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

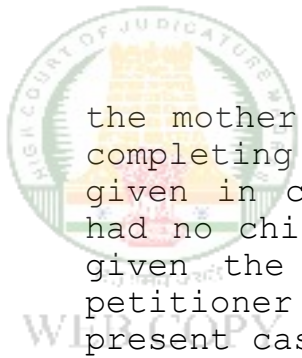
For Anticipatory Bail in Crime No.05 Of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under sections 5(j), 5(j)(ii) and 5(L) r/w. Section 6 of Protection of Children from Sexual Offences Act, 2012 and Sections 80 and 81 of Juvenile Justice (Care and Protection of Children) Act, 2015, and Section 17 of Children from Sexual Offences Act, 2012, in Crime No.5 of 2021 on the file of the respondent police, seeks anticipatory bail.

3. The case of the prosecution is that on 19.05.2021 Valli, a minor girl delivered a child through cesarean at Bhanumathi hospital, Tiruppathur. The birth of the child was not informed to



the mother and father of Valli. Valli was sent from hospital after completing treatment on 27.05.2021. It appears that the child was given in custody of the petitioner herein for the reason that she had no child. The allegation is that the Doctor and the nurse had given the child, which was born to Valli, in adoption to the petitioner herein contrary to legal provisions. Therefore, the present case came to be registered.

4.The learned counsel for the petitioner submitted that the petitioner is an innocent and she is falsely implicated in this case. In fact the petitioner has no child and when the child was given to her, she was informed that adoption procedure will be followed. That is why, she received the child and took into her custody.

5.The learned Government Advocate (Crl. Side) opposed this petition on the ground that child was taken into custody contrary to the legal provisions.

6.It is seen that the petitioner was made to believe that adoption procedure would be followed for making the adoption legal. Therefore, the petitioner adopted the child.

7. In the view of the above, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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 Special Court for the Exclusive Trial of the Cases under the POCSO Act, Sivagangai, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a]the petitioner and 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;

[b]the petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders;

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

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



[e]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]**;

[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
30/06/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE SPECIAL COURT FOR THE EXCLUSIVE TRIAL OF THE
CASES UNDER THE POCSO ACT, SIVAGANGAI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUPPATHUR, SIVAGANGAI DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.7860 of 2021
Date :30/06/2021

IAS
TK/PN/SAR.2/02.07.2021/3P/4C