



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/08/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.10447 of 2021

Pitchaipandi @ Madasamy

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi District.
(Crime.No.212 of 2021)

... Respondent/Complainant

For Petitioner : Mr.R.J.KARTHICK,
Advocate.

For Respondent : Mr.T.SENTHILKUMAR,
Government Advocate (Crl.Side)

For Intervenor : Mr.S.RAMASAMY, Advocate.

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

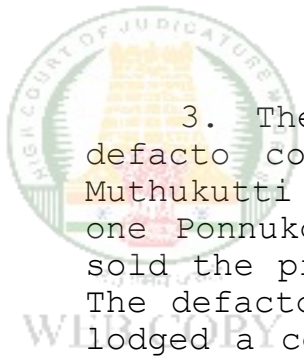
PRAYER :-

For Bail in Crime No.212 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 12.07.2021, for the offences punishable under Sections 363 and 365 of IPC, in Crime No.212 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.03.2021 at about 3.00 p.m., the petitioner along with other accused kidnapped the defacto complainant's relative, namely, Mrs.Muthukutti and her daughter Manjula for the purpose of executing a sale deed in respect of the property belonging to Muthukutti. Hence, the case.



3. The learned counsel for the petitioner submits that the defacto complainant is the sister of the petitioner. The said Muthukutti executed a registered Power of Attorney Deed in favour of one Ponnukodi, who is her sister. After that, the said Ponnukodi sold the property to one Manikandan through a registered sale deed. The defacto complainant, who is a third party to this transaction, lodged a complaint with a delay of three days. He further submits that the said Muthukutti executed a sale agreement in favour of the said Manikandan and received the advance amount of Rs.10 lakhs. After receiving the balance amount, out of her own will, she executed the deed of power of attorney in favour of Ponnukodi, who is the mother of Manikandan. The defacto complainant, who arranged the third parties to purchase the said property from the said Muthukutti for higher price, has foisted this false complaint. Hence, he prayed for grant of bail.

4. Mr.S.Ramasamy, learned counsel appearing for the intervenor strongly opposed for grant of bail stating that the victim Muthukutti had lost her husband and now, she is living with her minor daughter. Since the said Muthukutti and her husband had no issue, they adopted a minor child. In order to prevent the property going to the minor child, the petitioner along with other accused had taken her forcibly, abducted her and created this document. The learned counsel also apprehends danger to the life of the victim at the hands of the petitioner.

5. The learned Government Advocate (Crl. Side) submits that the investigation is in crucial stage and some more witnesses are yet to be examined.

6. The learned counsel for the petitioner submits that neither the petitioner nor his relatives would cause any disturbance to the victim family. He also ensures that there will be a fair investigation. He also produced an affidavit filed by the wife of the petitioner undertaking that the petitioner will not indulge in any offence in future and not cause any disturbance to the victim.

7. The learned counsel for the petitioner undertakes that after the release, the petitioner would file an undertaking affidavit before the concerned Judicial Magistrate as well as before the Investigating Officer within a period of one week that he will not disturb the victim family.

8. Considering the facts and circumstances of the case, the period of incarceration and also considering the assurance given by the petitioner's wife and the undertaking affidavit to be filed by the petitioner that he will not disturb the victim family, this Court is inclined to grant bail to the petitioner.



9. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed 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 No.II, Thoothukudi and on further conditions that:

[a] 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 file an undertaking affidavit in Tamil that he will not disturb the victim family, before the concerned Judicial Magistrate as well as before the concerned Police Station, within a period of one week from the date of release.

[c] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders.

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

[e] the petitioner shall not tamper with evidence or witness 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
17/08/2021

/ 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 JUDICIAL MAGISTRATE NO.II,
THOOTHUKUDI

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3. THE OFFICER INCHARGE,
PERAVURANI, THOOTHUKUDI DISTRICT.

4. THE INSPECTOR OF POLICE,
THALAMUTHU NAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.10447 of 2021

Date : 17/08/2021

SA/PN/SAR.1/17.08.2021/4P/6C