



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 26/10/2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.15420 of 2021

1.Starwin @ Kumar
2.Sudha @ Sudharshini @ Kugandhini ...Petitioners/Accused Nos.34,35

Vs

The State rep.by,
The Inspector of Police,
Q Branch CID Police
Madurai
Crime No.1 of 2021.

... Respondent/Complainant

For Petitioners : Mr.G.Bhagavathsingh
Advocate.

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

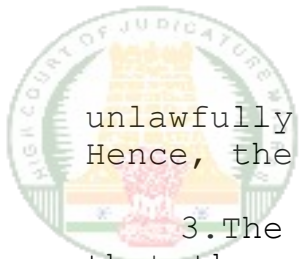
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Crime No.1 of 2021 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused Nos.34 & 35, who were arrested on 30.06.2021 for the offence under Sections 120(B), 370, 420 I.P.C, Section 12(1)(a) of Passport Act, 1967 and Section 14A(b) and 14(c) of Foreigners Act in Crime No.01 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that that on 27.04.2021, 23 Srilankan nationals, by trusting the words of one Srilankan national Kannan @ Mayuran that he would take them to Canada where they can earn a lot of money, gathered at Silambam Kadal Udaippu, Seashore in Srilanka. On 28.04.2021, those 23 persons were dropped at Thoothukudi seashore in a small boat. Thereafter, accused no.31 had transported the 23 Srilankan nationals from Thoothukudi to Madurai M.G.R. Bus Stand, from where, the accused nos. 1 and 2 have picked and dropped them in a Company belonging to accused no.2. After two days, they were shifted to Vinayaka Body Building premises, SIDCO Campus at Kappalur in Madurai, where they were kept for 40 days without valid travel document. During enquiry, it came to know that



unlawfully entered into India and decided to go to Canada illegally. Hence, the complaint.

3.The learned counsel appearing for the petitioners submits that the petitioners are husband and wife and they are having a two years old child. The first petitioner is an Indian citizen and the second petition is a srilankan citizen. The petitioners have been falsely implicated in this case and they are not having any adverse antecedents as against them. He further submitted that the petitioners are in judicial custody from 30.06.2021 and hence, he seeks for grant of bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent police opposed the grant of bail to the petitioners on the ground that the first petitioner is an accused in the case registered by NIA at Bangalore. The second petitioner is a srilankan national and she is not having any passport. As per Foreigners Act, if the persons are illegal migrants, then the Courts shall specifically order to keep them in detention centres, unless the competent authority passes any order under Section 3(2)(a) to (f) of Foreigners Act, 1946.

5.Considering the facts and circumstances of the case, the fact that NIA is also investigating the matter and the first petitioner is an accused in the case registered by the National Investigating Agency, this Court is not inclined to grant bail to the first petitioner/A34. Accordingly, this Criminal Original Petition is dismissed as against the first petitioner/A34.

6..However, considering the facts and circumstances of the case, the fact that the second petitioner/A35 is having a two years old child, considering her antecedents and also the period of incarceration, this Court is inclined to grant bail to the second petitioner/A35. However, the second petitioner/A35 is a srilankan national and she entered as an illegal migrant, she shall be kept in a Special Camp at Trichirappalli, until further orders.

7. Accordingly, this Criminal Original Petition is allowed in respect of the second petitioner/A35. The second petitioner/A35 is ordered to be released on bail on her executing a bond each for a sum of Rs.25,000/-(Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Madurai and on further condition 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 Aadhaar card or bank pass book to ensure their identity.

[b] since the second petitioner/A35 is a srilankan national and she entered as an illegal migrant, she shall be kept in a Special Camp at Trichirappalli, until further orders.



[c] the second petitioner/A35 shall not tamper with the evidence or witness either during investigation or trial.

[d] the second petitioner/A35 shall not abscond either during investigation or trial.

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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner/A35 in accordance with law as if the conditions have been imposed and the second petitioner/A35 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

9. Accordingly, this Criminal Original Petition is partly allowed.

sd/-

26/10/2021

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/ /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.IV, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
Q BRANCH CID POLICE, MADURAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

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

ORDER IN

CRL OP(MD) No.15420 of 2021

Date :26/10/2021

MK/SKN/SAR.I/26.10.2021/3P/6C

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