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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.1755 of 2022

1.Mariamamma
2.J.Suganya
3.M.Ramya

.. Petitioners

Vs.

State rep.by its
The Inspector of Police,
C-1, Uthukottai Police Station,
Uthukottai Taluk,Thiruvallur District.
(Cr.No.1431 of 2020)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail in Crime No.1431 of 2020 on the file of the respondent police.

For Petitioners : Mr.N.R.Elango, Senior Counsel
For Auxilia Peter

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioners who were arrested and remanded to judicial custody on 09.01.2022 for the offences under Section 174 of Cr.P.C @ 304(2), section 34 of IPC and 109 of IPC in Crime No.1431 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners are (Trained Nurses) A1, A3 and A4. It is alleged that the defacto complainant along with his conceived wife admitted in the Julia Hospital on 04.09.2020, due to the absence of the doctor, with the intention to take care of the ailing mother and the baby in the womb, at the order of A5 treated the defacto complainant's wife for delivery without proper experience in gynecology and due to which a girl baby was born dead. Hence, the complaint.

3. The learned Counsel for the petitioners submits that the petitioners have not committed any such offence as alleged by the prosecution and they have been falsely implicated in this case. He



further submits that petitioners reluctantly admitted that at the time of delivery the baby not cried and the first petitioner found that umbilical cord was around the neck, the petitioner immediately freed the cord and tried to revive the baby through CPR, but unfortunately despite the best efforts not able to revive the baby. He further submits that the petitioners have been suffering incarceration for seventeen days from 09.01.2022. Hence, he seeks to grant bail to the petitioners.

4. The learned Additional Public Prosecutor on instructions submits that the investigation was almost completed. He further submits that the defacto complainant filed CC.40/2021 before DCRF, Tiruvallur claiming compensation of Rs.25 lakhs from the said hospital and the same is pending. However, he vehemently opposed to grant bail to the petitioners.

5. Considering the facts and circumstance of the case, this court is inclined to grant bail to the petitioners.

[a] the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

[b] the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the District and Sessions Court within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

[c] 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;

[d] the petitioners shall report before the respondent police as and when required for interrogation;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[f] the petitioners shall not abscond either during investigation or trial;

[g] on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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;



[h]if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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-sd/-

27/01/2022

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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT AND SESSIONS
COURT, TIRUVALLUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL JAIL, CHENNAI

3 INSPECTOR OF POLICE
C-1, UTHUKOTTAI POLICE STATION,
UTHUKOTTAI TALUK, TIRUVALLUR DISTRICT-662 026

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+3 CC to AUXILIA PETER Advocate on payment of necessary charges
Sr.1265

CRL OP.1755/2022

Date :27/01/2022

RVR 28/01/2022