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Crl.OP.No.29125 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.OP.No.29125 of 2022

1.Valarmathi
2.Mathiyalagan

... Petitioners

Vs.

The State Rep by
The Inspector of Police,
AWPS Salem Town Police Station,
Salem District.
Crime No.53 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in connection with Crime No.53 of
2022 pending on the file of the respondent.

For Petitioners : Mr.K.T.S.Sivakumar

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 08.11.2022 for the offences punishable under Sections 370A(1) and 109 alter to Sections 370 and 109 of IPC in Crime No.53 of 2022 on the file of respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant one Vinod Kumar, who is working as a new reporter in NEWS TAMIL 24/7 is that he heard the news about the selling of new born infants in Salem Government Hospital and that A1 Latha is acting as an agent for the said purpose by fixing a sum of Rs.5,00,000/- for male child and Rs.4,50,000/- for female child. The defacto complainant gave a sum of Rs.38,000/- as advance to A1. On 08.11.2022, A1 contacted the defacto complainant over phone and stated that she is having a female child and asked the defacto complainant to come with Rs.5,00,000/-. Thereafter, the defacto complainant lodged a complaint before the respondent police. Based on which, a trap was laid and the accused were caught red handed, while selling an infant. Hence, the case.



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3. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A2 & A3 in this case. The petitioners have been arrested on suspicion and even as per the complaint, there is no allegation against the petitioners and the averments are only against the A1. A1 in this case has been arrested and released on bail. He would further submit that no child has been involved in selling, it is only an alleged attempt and the petitioners have no previous case pending against them. Therefore, he prays to grant bail to the petitioners.

4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioners are the members of the gang involved in selling of new born infants. He would submit that A1 in this case has been arrested and released on bail. However, he vehemently opposed to grant bail to the petitioners.

5. Heard both the learned counsel and perused the materials available on record including the First Information Report.



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6. Taking into consideration of the facts and circumstances of the case and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 Additional Mahila Judge, (Magisterial Level), Salem** 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 petitioners shall report before the respondent police every day at 10.00 am until further orders and on further condition that the petitioners shall make available themselves for interrogation as and when required by the investigation officer;



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

[d] the petitioners shall not tamper with evidence or witness 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 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]**;

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

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A.D.JAGADISH CHANDIRA,J.

shk

To

1. The learned Additional Mahila Judge, (Magisterial Level), Salem
- 2.The Inspector of Police,
AWPS Salem Town Police Station,
Salem District.
3. The Central Prison,
Salem
- 4.The Central Prison for Women,
Salem
5. The Public Prosecutor,
High Court of Madras.

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