



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 01/03/2022

PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.4005 of 2022

P.Arockiyaraj

... Petitioner/1st Accused

Vs

The State rep.by,
The Inspector of Police,
Woraiyur Police Station,
Trichy.

Crime No.70 of 2022.

... Respondent/Complainant

For Petitioner : Mr.D.Venkatesh,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.70 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, who was arrested and remanded to judicial custody on 23.01.2022 for the offences punishable under Section 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.70 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant's husband has borrowed a sum of Rs.80,000/- from the petitioner for playing gambling and since he was not able to repay the said amount, he handed over the custody of his 2 months old baby to the petitioner in lieu of the loan. Thereafter, the petitioner handed over the child to one Santhanakumar. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the defacto complainant is a HIV patient and she is having 5 children, that the petitioner is having some money transaction with the complainant and her husband and due to that, the petitioner



had taken the two months old baby from the custody of the defacto complainant and handed over to the said Santhanakumar, who had lost his son recently. He would further submit that the co-accused was already granted bail by this Court in Crl.O.P.(MD)No.3832 of 2022, dated 25.02.2022.

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4.The learned Additional Public Prosecutor would submit that the said Santhanakumar, without following the procedure of Juvenile Justice (Care and Protection of Children) Act, had adopted the child and that it is not a case of the child trafficking. He would further submit that all other accused were secured.

5.Considering the nature of charges levelled against the petitioner and also the facts that the petitioner is in judicial custody from 23.01.2022, that the petitioner is not having any bad antecedents and that the co-accused was already granted bail by this Court, this Court is inclined to grant bail to the petitioner subject to the following conditions.

6.Accordingly, the petitioner is ordered to be released on bail on his executing a bond 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, Trichy.

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court 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 the 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]***; and;

(f)if the accused / petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

01/03/2022

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01/03/2022

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,
TRICHY
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TRICHY DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE INSPECTOR OF POLICE
WORAIYUR POLICE STATION, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4005 of 2022
Date :01/03/2022

SJI
MK/PN/SAR.III/01.03.2022/3P/6C