



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 22/03/2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD) . No.5328 of 2022

1. Gomathi
2. Sundaralingam

... Petitioners/Accused NO.2 & 3

Vs

The State represented by
The Inspector of Police,
Appayanaickenpatti Police Station,
Virudhunagar District.
Cr.No.20 of 2022.

... Respondent/Complainant

For Petitioners : Mr.Mariapapn.G,
Advocate.

For Respondent : Mr.M.Muthu Manikkam,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in Crime No.20 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused Nos.1 and 2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 80, 81 r/w 87 of Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.20 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the first accused, namely, Annamalai is a resident of Pulliyankadai Village of Salem District. His wife gave birth to third child and since her health condition had become very critical, he thought that he could not bring up his third child without the help of his wife. Therefore, he decided to give his third child in adoption and he sent a communication to A4 Maheswari that any parent is willing to take his son in adoption. Accordingly, the fourth accused contracted A1, the present petitioners A2 and A3, who are not having child for so many years. It is the further case of the prosecution that on 09.12.2019, the petitioners went to Salem and met A1 and he handed over his male child to the petitioners, for which, they gave a sum of Rs.45,000/- to A1 for the medical expenses of his wife. Hence, the complaint.



3.The learned counsel for the petitioners would submit that the petitioners are husband and wife, who are not having any child for more than 10 years, has decided to adopt a child, that after coming to know that the first accused is having male child and he is willing to give adoption, on 09.12.2019, the petitioners went to Salem and got the child from the first accused, who is the father of the child, that thereafter, at the time of vaccination, they had demanded the certificate for valid adoption, that the petitioners came to know about the legal formalities to be performed, and therefore, they approached the District Collector and sent a letter dated 23.12.2019, informing that three months old child was in their custody and that as per the directions of District Collector, they have handed over the child to the Children Welfare Committee of Virudhunagar on 23.12.2019 and thereafter, the child was in care Centre, that subsequently the biological mother has filed a writ petition, seeking custody of the child and that after conducting DNA test, in pursuance of the order of this Court, the child was handed over to the biological mother and that thereafter, the present complaint came to be lodged in the year 2022.

4.The petitioners have produced the copies of the orders passed by this Court in W.P.(MD)No.13118 of 2020.

5.Considering the nature of the charges levelled against the petitioners and also the facts that they have voluntarily surrendered the child before the Child Welfare Committee in pursuance of directions given by the concerned District Collector and that the child was already handed over to the biological mother of the child as per directions of this Court and that they are not having not any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Sattur, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a)the petitioners and 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 as and when required for interrogation.

(c)the petitioners shall not tamper with evidence or witness
<https://hccourtsonline.org.in/hccservices> investigation or trial;



(d) the petitioners 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

22/03/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS

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 JUDICIAL MAGISTRATE NO.I
SATTUR

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

3 THE INSPECTOR OF POLICE
APPAYANAICKENPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT

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

+1. CC to M/S.MARIAPAPN G Advocate SR.No.2315

ORDER

IN

CRL OP(MD) No.5328 of 2022

Date : 22/03/2022

SS/SBN/SAR:IV/29.03.2022 : 3P/6C