



Crl.O.P.No.3797 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2023

CORAM :

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

Crl.O.P.No.3797 of 2023

Selvaraj,
S/o.Velli

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi Dt.
(Crime No.201 of 2022)
Respondent

...

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.201 of 2022 pending on the file of respondent police.

For Petitioner : Mr.M.Selvakumar

For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl.Side.)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.01.2023 for the alleged offence under Sections 364(A), 344, 120(B) and 506(ii) of I.P.C. in Crime No.201 of 2022 on the file of the respondent police, seeks bail.

2. The defacto complainant has given a complaint stating that his son was missing and as such, after conducting enquiry, the F.I.R. has been altered. The case of prosecution is that due to previous enmity between A2 and the defacto complainant in respect of property, the petitioner along with other accused said to have kidnapped his son, who was aged about 4 years and he was illegally detained. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioner submitted that initially, his name was not found in the F.I.R. and subsequently, based on the statement of co-accused, he was falsely implicated as accused in this case. Hence, the entire allegation is false, vindictive, wanton and he is no way connected with the offence. He would submit that he has not at all



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committed any of offence as alleged by the respondent police and due to previous enmity, he has been falsely implicated in this case and he will abide by any condition that may be imposed by this court. He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than 45 days from 16.01.2023. The specific overtact attributed against him is that he has only accompanied to the co-accused. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are 6 accused involved in this case and the petitioner is arrayed as A5. He would submit that due to property dispute and in order to take revenge between A2 and the defacto complainant, the petitioners along with other accused have kidnapped minor son of him, aged about 4 years. He would submit that now the child was secured and he is in custody of defacto complainant. He would submit that that if he is released on bail, he would tamper the witnesses and hamper the investigation and the investigation is almost completed. Hence, he vehemently opposed to grant bail to the petitioner.



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5. Considering the above facts and circumstances, and also considering the fact that the investigation almost completed and the fact that the petitioner has only accompanied with other accused, which is the overtact attributed against him and now the child was secured and he is in custody of defacto complainant and also on considering the period of incarceration undergone by the petitioner, 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 condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Kallakurichi**, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;



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(b) the petitioner shall report before the respondent police daily at 10.30 a.m. for the period of two months;

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

03.03.2023

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1. The Judicial Magistrate No.II,
Kallakurichi.
2. Inspector of Police,
Kachirapalayam Police Station,
Kallakurichi Dt.
3. The Superintendent of Prison,
Sub-Jail, Ulundurpet, Kallakurichi Dt.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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T.V. THAMILSELVI, J.

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Crl.O.P.No. 3797 of 2023

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