



Crl.O.P.No.12349 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

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

Crl.O.P.No.12349 of 2023

Varun
S/o.Kesavan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Manimangalam Police Station,
Chengalpattu District.

(Crime No.64 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.64 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.R.Balakrishnan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.03.2023, in Crime No.64 of 2023 registered for Born baby missing and later altered to the offences punishable under Sections 302 & 201 of IPC, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the *defacto* complainant and the petitioner were loving each other and out of their relationship, the de-facto complainant became pregnant, thereby, the petitioner had married the de-facto complainant without the knowledge of their parents. Later, the de-facto complainant had given birth to a male baby, while so, the petitioner had handed over the child to his friend to take care of the baby and taken the de-facto complainant to his house. Further, when the de-facto complainant had asked the whereabouts of the child, the petitioner had informed her that the child is with his friend and he is safe. While so, on doubt, the defacto complainant had lodged a complaint before the respondent police and based on her complaint, born baby missing case was registered in Crime No.64 of 2023 and later, during investigation, it came to light that the petitioner had murdered his child and screened the body of the child. Thereby, the case has been altered to one under Sections 302 and 201 of IPC. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that this is the second bail application of the petitioner before this Court and this Court had dismissed the earlier bail application filed by the petitioner in Crl.O.P.No.9604 of 2023 vide order dated 04.05.2023. He further submitted that the petitioner, aged about 23 years, is an innocent person and a false complaint has been given as against the petitioner, on account of several dispute between the *defacto* complainant and the petitioner. He also submitted that it the case of circumstantial evidence and there is no direct eye witness to the occurrence and also there is no material to show that the petitioner is the person who had committed murder of the victim child. He further submitted that the petitioner is in custody from 04.03.2023 and he is also ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that initially the present case was registered for born baby male missing and thereafter, during enquiry, it was found that the petitioner had killed the child and to screen the evidence, he had buried the



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body of the child. He further submitted that only based on the confession statement recorded from the petitioner, the body of the child was recovered. He also submitted that the investigation in this case is still pending and also the postmortem report and the DNA report are yet to be received. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a 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 Judicial Magistrate No.II, Tambaram**, and on further conditions that:



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[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 petitioner shall report before respondent police everyday at 10.30 a.m., until further orders;

[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Judicial Magistrate No.II,
Tambaram.
2. The Inspector of Police,
Manimangalam Police Station,
Chengalpattu District.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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