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CrI.OP.No.16576 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

CrI.OP.Nos.16576 of 2023

Devendra

..Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Sholinghur Police Station,
Ranipet District.
Crime No.295 of 2022

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in Crime No.295 of 2022 on the
file of the respondent police.

For Petitioner : Mr.D.Dayalan

For Respondent : Mr.S.Rajakumar,
Additional Public Prosecutor

For Intervenor : Mr.J.Saravana Vel



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 23.06.2023 for the offences punishable under Sections 363, 109 of Indian Penal Code, 1860 in Crime No.295 of 2022, on the file of the respondent police seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner is innocent and he has been falsely implicated in this case originally registered for the offence under the caption “Boy Missing” and later altered into the offence under Sections 363 and 109 of IPC. Petitioner is in Judicial Custody from 23.06.2023 and thus, he seeks bail.

3.In response, learned Additional Public Prosecutor submitted that, defacto-complainant's husband is the 8th accused in this case. Petitioner is nephew of A8. He helped A8 in kidnapping the child. There is a matrimonial discard between defacto complainant and her husband. Defacto Complainant is living in her parents house with her 4 year old child. At the instigation of her husband, other accused kidnapped her minor son from her custody on 13.11.2022. He further submitted that, if



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the petitioner is released on bail, investigation will be delayed. Despite several efforts taken by the respondent police, the whereabouts of the minor son and A8 is not known.

4.The learned counsel appearing for the defacto complainant/intervenor submitted that, if the petitioner is released on bail, he would tamper the witnesses and that would delay the investigation. Petitioner is suppressing the whereabouts of A8 and the minor child. Therefore, he prayed for dismissal of this petition.

5.Considered the rival submissions and perused the records.

6.Admittedly, petitioner was arrested and remanded to Judicial Custody on 23.06.2023. Now, sixty days of judicial custody is over. Though, the offences are originally registered under caption “boy missing” and subsequently altered into Sections 363 and 109 of IPC and now altered into Sections 363, 109, 365, 368 of IPC read with Section 84, 86 of Juvenile Justice Act, the highest punishment that can be awarded as per Section 365 of I.P.C., is seven years of imprisonment and



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the other offences are punishable with less than 7 years imprisonment.

Sixty days of Judicial Custody is over. Respondent police ought to have completed the investigation and filed final report by this time. When that is not done, petitioner is entitled for mandatory bail under Section 167(2) of Cr.P.C. Thus, this Court is inclined to grant default bail to the petitioner.

7. 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, Sholinghur 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 petitioner shall report before the respondent police twice daily at 10.30.a.m., and 05.30.p.m., until further orders.



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[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner 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 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].

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

22.08.2023
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ep/apd



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G.CHANDRASEKHARAN. J.

ep/apd

To

1.Judicial Magistrate,
Sholinghur

2.The Inspector of Police,
Sholinghur Police Station,
Ranipet District.

3.Central Prison,
Vellore.

4.The Public Prosecutor,
High Court of Madras.

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