



Crl.O.P.No.334 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

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

Crl.O.P.No.334 of 2023

Francis Jesuraj @ Francis

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Teynampet, Chennai - 600 057.

(Crime No.12 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending in Crime No.12 of 2022
pending on the file of the respondent.

For Petitioner : Mr.P.Jayachandran

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



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ORDER

The petitioner who was arrested and remanded to judicial custody on 17.11.2022 in Crime No.12 of 2022, registered for Born Baby Female Missing and later altered to the offence under sections 417, 376 IPC r/w 81 of Juvenile Justice Care and Protection of Children Act 2015, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the de-facto complainant is that she and the first accused loved each other and on false promise of marrying her, A1 had physical contact with her, due to which, she became pregnant and gave birth to a female child on 05.12.2021 at KMC Hospital. After delivering the child, A1 sold the child to one Lavanya for Rs.2,75,000/- with the help of A3/Rani, who is a broker and she has received Rs.40,000/- as commission for the offence committed by her. A2/the petitioner herein has received Rs.1,00,000/- as commission and he has made arrangements to sell the child and A4 received Rs.10,000/- as commission in selling the child. 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 earlier dismissed the bail application filed by the petitioner in Crl.O.P.No.30729 of 2022 vide order dated 13.12.2022. He further submitted the petitioner is working as a Pastor of the Church and he has been falsely implicated in this case. He further stated that the petitioner has been suffering incarceration from 17.11.2022. He also submitted that the Co-accused (A4) in this case has been granted bail and hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner herein played the main role by making arrangements to sell the child. He also stated that this is his second bail application before this Court. Hence, he would vehemently oppose to grant bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner, on instructions, submitted that without prejudice to the rights, the petitioner is ready to deposit the amount of Rs.50,000/- to the credit of the crime number



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and he has no objection that the amount being disbursed to the de-facto complainant. Hence, he prays for grant of anticipatory bail to the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner and taking note of the fact that the petitioner is volunteered to pay a sum of Rs.50,000/- to the credit of the Crime Number and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 XVIII Metropolitan Magistrate, Saidapet, Chennai**, and on further conditions that:



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[a] the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) to the credit of Crime No.12 of 2022 before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, within a period of two weeks from the date of receipt of a copy of this order and on such deposit, the de-facto complainant is permitted to withdraw the same, on filing undertaking affidavit and proper identification and acknowledgment;

[b] 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;

[c] the petitioner shall report before the respondent Police on alternative days at 10.30 a.m., for a period of two months and thereafter on every Saturday, 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



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T.V.THAMILSELVI,J.

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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.

12.01.2023

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To

1. The XVIII Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police,
All Women Police Station,
Teynampet, Chennai - 600 057.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

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