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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . Nos.2979 and 2981 of 2023

A.Prabu

... Petitioner/1st Accused
in Cr1.OP(MD)No.2979 of 2023

Shanmugavalli

... Petitioner/2nd Accused
in Cr1.OP(MD)No.2981 of 2023

Vs

The State rep.by,
Inspector of Police,
All Women Police Station,
Lalgudi, Trichy District.
Crime No. 40/2022.

... Respondent/Complainant
in both cases

In both petitions:

For Petitioners : M/s.Ganapathi Subramanian.P , Advocate

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :-

For Bail in Crime No. 40 of 2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/Accused, who were arrested and remanded to judicial custody on 07.01.2023, for the offence punishable under Sections 370, 365, 346, 109, 120(b), 102, 193 of I.P.C, Sections 81, 87 of Juvenile Justice (Care and Protection of Children) Act in Crime No. 40 of 2022, on the file of the respondent police, seeks bail.



2.The case of the prosecution as per the complainant is that she is unmarried and delivered a female child on 17.09.2022 and the birth of the child was not known to her relatives and the persons in the village. While so, she was discharged on 22.09.2022 by one Advocate Prabhu and his wife Shanmugavalli, who are known to her brother and they stayed in the house of the said Prabhu and thereafter, she along with her mother left the child in the Advocate Prabhu's house had gone to their village to take their dress. When she came back the child was missing and when she enquired the said Prabhu, he had threatened her stating that she should not ask for the child. Hence, the complaint. Later, during the course of investigation it came to light that the defacto complainant along with Advocate Prabhu and his wife Shanmugavalli had illegally sold the child to one Gopinath. who was working in an Infertility Centre in Delhi and later, the child was changed from hands to hands and a fabricated birth certificate was made ready at Delhi and later the child had been handed over to a childless couple at Karnataka. Later, the child has been recovered from Karnataka.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been unnecessarily implicated in this case. He would further submit that the victim child was secured and that the petitioners are in custody from 07.01.2023. They are also ready to cooperate for the further investigation. Hence, prays to release the petitioners on bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners are the main accused in the case. They are involved in the offence of child trafficking, along with the mother of the victim. She delivered a child illegally and the petitioners have sold the child to a person, who was working in the Infertility Centre in Delhi. The victim child was changed from hands to hands and later, secured from Bellavi. The petitioners have also filed anticipatory bail petitions before this Court and obtained an order of interim anticipatory bail, where they have attempted to play fraud on the Court and divert the course of investigation. Later, the Court found that the petitioners and the defacto complainant/mother of victim child played fraud and therefore, this Court dismissed the anticipatory bail petitions filed by the petitioners and they have been secured by the respondent on 07.01.2023. Further, he would submit that it is revealed from the mobile phone secured from A5, A6, that the first petitioner being an Advocate, taking advantage of his position, engaged in child trafficking of many other children. The respondent Police have also recovered several photographs of children. It is a case of large scam of child trafficking and the investigation is in very nascent stage. The first petitioner being an Advocate by profession, there is every possibility of interfering with the administration of justice. Hence, prays to dismiss the petitions.



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5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Taking into consideration the facts and circumstances of the case and considering the vehement objection raised by the learned Additional Public Prosecutor and the nascent stage of investigation and also considering the overt act attributed against the petitioners, this Court is not inclined to grant bail to the petitioners.

7. In view of the above, these Criminal Original Petitions stand dismissed.

sd/-

15/02/2023

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/02/2023

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

pnm

TO

1. THE OFFICER IN CHARGE,
SUB JAIL,
LALGUDI, TRICHY.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
LALGUDI, TRICHY DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP (MD) . Nos.2979
and 2981 of 2023
Date :15/02/2023

RK/BUC/SAR-1 (27/02/2023) 3P/4C