



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/09/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.16335 of 2023

Esakiammal

... Petitioner/Sole Accused

Vs

The State represented by
The Inspector of Police,
Karivalamvanthanallur Police Station,
Sankarankovil,
Tenkasi District,
Crime No.161/2023.

... Respondent/Complainant

For Petitioner : M/s.Raama Krishna.Ka,
Advocate.

For Respondent : Mr.R.Suresh Kumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.161/2023 on the file of the respondent police



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ORDER : The Court made the following order :-

The petitioner/Sole Accused herein, who was arrested on 08.07.2023 for the alleged offence under Section 174 Cr.P.C @ 302 IPC r/w Section 75 of Juvenile Justice Act, in Crime No.161 of 2023, on the file of the respondent police, seeks bail.

2.The facts in brief:

This petitioner was living along with her five year old child. Her husband died in Road accident. So she went to her parental home and living there. Later she was working in Jeyajothi Mill, Rajapalayam. On 09.06.2023 at about 2.30 p.m., the child was suffering from fever. So she requested Asaithambi, the husband of sister to take the child to the hospital and she left the child in the custody of Kaviya, who is her sister-in-law and went to the work. Later, she was informed that the child was running high fever. So the child was taken to Government Hospital, Sankarankoil. She was informed that the child reported to be dead. With this averments, she filed the complaint, which was registered in Crime No.161 of 2023, under Section 174 of Cr.P.C.



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3. During the course of investigation, it was found that the petitioner is responsible for the death of the child. Finding that she caused murder of the child by continuous torture, the case was altered to Section 302 of IPC r/w 75 of Juvenile Justice Act. She was remanded to custody and seeking bail this petition has been filed.

4. The learned counsel for the petitioner would submit that even as per the allegation made by the prosecution on the date of the above said occurrence, the child was left to the custody of Kaviya, the relative of this petitioner. She did not know the reason for the death. According to him, she has been wrongly roped in and the cause of the death would be found out only during the course of investigation. According to him, medical negligence may be the cause of the death.

5. Per contra, the learned Government Advocate (Crl. Side) would submit that continuous torture was made to the deceased by this petitioner. Even on the date of occurrence, the petitioner alleged to have caused injury in the private parts of the deceased. Because of continuous torture only the death occurred.



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6. Reading of the CD file shows that after 30 days of the birth of the deceased child, the husband of the petitioner met with an accident. Over the above said unfortunate event, this petitioner was not liking the child and used to beat her even for petty reasons. Because of the continuous ill-treatment, beating, causing injuries, wherever and whenever possible, unfortunate death of the child has happened. The conduct of this petitioner dis-entitles her from claiming the benefit of bail, at this stage. If granted, she may hamper the investigation process. Absolutely, I find no reason to enlarge the petitioner on bail. This petition deserves to be dismissed.

7. Accordingly, this Criminal Original Petition stands dismissed.

sd/-
11/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE INSPECTOR OF POLICE
KARIVALAMVANTHANALLUR POLICE STATION,
SANKARANKOVIL,
TENKASI DISTRICT



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- 2 THE OFFICER INCHARGE,
DISTRICT PRISON, KOKARAKULAM, TIRUNELVELI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.16335 of 2023
Date :11/09/2023

SS/JGB/22/09/2023/5P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023