



CRL OP(MD). No.22557 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.22557 of 2023

Balamani,

... Petitioner/ Accused No.5

Vs

The State rep. by,
The Inspector of Police,
Peraiyur Police Station,
Madurai District.
(Crime No.174 of 2023).

... Respondent/Complainant

For Petitioner : Mr.S.Nihar Ali,
Advocate.

For Respondent : Mr.R.M.S.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime no.174 of 2023 on the file of the Respondent Police.



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ORDER: The Court made the following order :-

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The petitioner/A5, who was arrested and remanded to judicial custody on 16.11.2023 for the alleged offence punishable under Born Baby male missing @ 370(4) of IPC and Sections 80,81 of Juvenile Justice Act, 2015 in Crime No.174 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is working as Village Health Nurse in Primary Health Centre, Santhaiyur Village. On 07.08.2023, one Priyadharshini, who is a minor girl aged about 17 years, delivered a male baby, during that time, the defacto complainant is not aware that the said Priyadharshini is a minor girl and she has conceived illegally. After delivering the male child, both the minor girl and new born baby were sent to Government Rajaji Hospital, Madurai for further treatment. After taking treatment, on 12.08.2023, the minor girl has left from the Government Hospital without informing to anybody. According to the instruction of higher official, on 14.08.2023, the defacto complainant went to the minor girl's house and enquired about the infant, and she informed that the infant is with her mother. Subsequently, on 24.08.2023, again the defacto complainant went to the minor girl's house, but she could not find the infant. Hence the case.



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3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and she has not committed any offence as alleged by the prosecution. He would further submit that co-accused were granted bail by this Court and the petitioner is in custody from 16.11.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that after registering FIR, the respondent police conducted investigation and during investigation, it was revealed that the minor girl and one Selvakumar had developed relationship, due to that the minor girl conceived. Moreover, the infant was sold to A10. Hence, the case was altered as offence under Sections 370(4) IPC and Sections 80, 81 of the Juvenile Justice Act. Hence, he objected to grant bail to the petitioner. However he fairly concedes that the infant was recovered.

5.Considering the facts and circumstances and also considering the period of incarceration and also taking into consideration the fact that co-accused were granted bail by this Court and also taking into consideration the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012) 1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:



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[i] Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 District Munsif cum Judicial Magistrate, Peraiyur, Madurai District and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioner shall appear before the trial Court on receipt of summons;

(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.

(vi) 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



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learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court

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in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

vii)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
14/12/2023

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14/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1. The District Munsif cum Judicial Magistrate,
Peraiyur, Madurai District.
2. Do through the Chief Judicial Magistrate,
Madurai District.
3. The Superintendent,
Central Prison(womens),
Salem.
4. The Inspector of Police,
Peraiyur Police Station,
Madurai District.



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5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.22557 of 2023
Date :14/12/2023

SSA/14.12.2023/6P/6C

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