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Crl.O.P.No.11869 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.11869 of 2024

Mathiyalagan,
S/o.Subramani

... Petitioner/Accused No.4

Versus

State rep. by:

The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur District.
(Crime No.153/2024)

... Respondent/Complainant

For Petitioner : Mr.D.Bennigton

For Respondent : Ms.M.Sumri Arnica
Public Prosecutor

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge on bail the petitioner/ accused No.4 in Crime No.153 of 2024 on the file of the respondent police.

ORDER

This Criminal Original Petition has been filed by the petitioner on 13.05.2024 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.



2. The petitioner / Accused No.4 was arrested and remanded to judicial custody on 30.03.2024 for the alleged offences punishable under Sections 465 & 468 of IPC in Crime No.153 of 2024, on the file of the respondent police.

3. The case of the prosecution is that the petitioner helped one Chandrakanthan/A1 and his wife/A2 to adopt a child illegally in the year 2022. Hence the case.

4. The learned counsel appearing for the petitioner submitted that the petitioner is arrayed as 4th accused in this case and he is innocent and has not committed any offence as alleged by the prosecution. This petitioner has been falsely implicated in this case by the respondent police. The petitioner is in judicial custody since 30.03.2024. The earlier bail application filed by the petitioner was dismissed by the learned Vacation Sessions Judge, Tirupattur District. He further submitted that if this Court grants bail to the petitioner, he is ready to produce local sureties to the satisfaction of the Court. He, therefore, prayed to grant bail to the petitioner.

5. The learned Public Prosecutor appearing for the respondent police submitted that, the petitioner helped the Accused 1 and 2 to adopt a child



illegally. She further submitted that the petitioner has no previous case pending against him. She vehemently opposed granting of bail to the petitioner.

6. Heard on both sides. This Court has perused the records.

7. Considering the facts and circumstances of the case, the period of incarceration and the fact that there is no previous case as against this petitioner, considering the submission of the learned counsel appearing for the petitioner that the petitioner is ready to produce local surety and also with a view to give him an opportunity to reform himself, this Court is inclined to grant bail to the petitioner, however, subject to conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a **bond for Rs.25,000/-** (Rupee Twenty-Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) to the satisfaction of the **learned Judicial Magistrate No.I, Tirupattur. One of the sureties must be a local surety.**

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019]. The learned Judicial Magistrate shall obtain



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a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall appear before the respondent police as and when required for interrogation;

(iv) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(v) On breach of any of the aforementioned conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

rkp

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**



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To
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1. The Judicial Magistrate I, Tirupattur.
2. DO THROUGH:
The Chief Judicial Magistrate, Vellore.
3. The Superintendent of Police,
Sub Jail, Tirupattur.
4. The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur District.
5. The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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