

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of July Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.17206 of 2018

MURUGESA UDAIYAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
RISHIVANTHIYAM POLICE STATION,
ULUTHERPETTAI TALUK,
VILLUPURAM DISTRICT
CR.NO.158 OF 2018.

[RESPONDENT]

For Petitioner : M/S.V.SAMBAMURTHY Advocate

For Respondent : MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.158 of 2018 registered by the respondent for the alleged offence punishable under Section 304 of IPC.

2. The case of the prosecution as per the de-facto complainant one Elumalai, is that his brother Govindaraj is a coolie and that on 26.06.2018 at 6.00.a.m, he had gone to work in the Well belonging to the petitioner on daily wages. On the same day at about 12.30.p.m since there was no proper security measures in the village, the side wall of the Well collapsed and thereby, the brother of the defacto complainant was crushed in the Well and died on the same spot and thereby, the complaint has been given against the owner of the Well for having not made proper safety measures.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner is aged about 77 years and that the agricultural work and maintenance of the Well is being done by his family members and he is not aware of the condition of the Well. However, he would submit that the victim has got two children and that without prejudice to his defence, the petitioner is prepared to deposit an amount of Rs.1,00,000/- each in the name of the two children belonging to the deceased. He would submit that the petitioner has also filed an affidavit before this Court, agreeing to deposit Rs.1,00,000/- each in the name of the two

children of the deceased Govindaraj.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the defacto complainant's brother, while working in the Well of the petitioner, died due to unsafety measures in the well.

5. Taking into consideration the facts of the case and the submissions made by the counsels and that the petitioner is prepared to deposit Rs.2,00,000/- to the Credit of Crime No.158 of 2018, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Villupuram, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) each in Fixed Deposit in the name of the two minor children of the deceased totalling to Rs.2,00,000/- in a nationalised Bank nominating the wife of the deceased as the guardian of the children and hand over the Fixed Deposit Receipts to the learned Magistrate at the time of surrender and execution of sureties.

[b] The learned Magistrate shall hand over the Fixed Deposit receipts to the wife of the deceased after conducting due enquiry. The wife of the deceased is entitled to withdraw the interest accrued in the Fixed Deposits once in three months.

[c] if the petitioner fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[d] the petitioner shall report before the respondent police daily at 10.30.a.m for two days and thereafter, as and when required for interrogation.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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 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]**.

[h] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
20/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
VILLUPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RISHIVANTHIYAM POLICE STATION,
ULUTHERPETTAI TALUK,
VILLUPURAM, DISTRICT.

+2CC to M/S.V.SAMBAMURTHY Advocate on payment of necessary charges SR NO.13492

CRL OP.17206/2018

Date :20/07/2018

MK:27/07/2018