

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of July Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.17606 of 2018

1 RAJESH KANNA

[PETITIONERS / ACCUSED]

2 RAMAMOORTHY

3 MARIMUTHU

Vs

THE STATE REP BY ITS,

[RESPONDENT]

THE INSPECTOR OF POLICE,

PALLAVARAM POLICE STATION,

CHENNAI

CR.NO.443 OF 2018.

For Petitioner : MR.DUR AISAMI SENIOR COUNSEL FOR
M/S.MUTHUMANI DORAISAMI Advocate

For Respondent : MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners seek anticipatory bail in Crime No.443 of 2018 registered by the respondent police for the offence punishable under Section 304(ii) of IPC.

2. The case of the prosecution as per the de-facto complainant one Prabu is that on 22.06.2018 at Eswari Nagar Junction, M.K.Nagar, Pallavaram, while he along with co-workers were engaged in the work of removing drainage blockage through "Jet Ratt" vehicle, the deceased Eraniappan was forced by Marimuthu, the third petitioner herein, who is the supervisor of the work, to clear the blockage in the drain manually and that he died due to asphyxiation inhaling the poisonous gas, which emanated from the manhole.

3. The learned Senior counsel appearing for the petitioners would submit that the first petitioner is the contractor and the second petitioner is the brother of the first petitioner and the third petitioner is the Supervisor of Rajeshkanna Constructions, which had taken the contract for cleaning the blockage in the underground drains in the Pallavaram Municipality. He would submit that they have been cleaning the blockage by using "Jet Ratt" vehicle belonging to their Company, while so, due to an accident that had happened at the place, the victim Eraniappan died. He would submit that, the petitioners have been diligent and that every precautionary

steps had been taken by them to clean the blockage by using appropriate safety measures, however, due to the accident, the victim had died. The learned Senior Counsel would also submit that the firm of the petitioners without prejudice to their defence, have also paid an amount of Rs.10,00,000/- (Rupees Ten Lakhs only) to Pallavaram Municipality and that on their behalf, the cheque has also been issued for a sum of Rs.10,00,000/- to the family members of the deceased by Pallavaram Municipality. He would submit that apart from this amount, the petitioners have also paid an amount of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) towards the funeral expenses of the deceased. He would submit that the petitioners are prepared to co-operate with the respondent in their investigation.

4. The learned Additional Public Prosecutor would submit that the petitioners are the contractors engaged for cleaning the blockage in the underground drainage in Pallavaram Municipality and due to the insistence and negligence of the Supervisor, the deceased got into the manhole and died due to asphyxiation inhaling poisonous gases.

5. Taking into consideration the facts of the case and the submissions made by the counsels and also taking note of the fact that an amount of Rs.10,00,000/- has been paid to the family of the deceased through the Pallavaram Municipality towards compensation, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions:

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Tambaram, on condition that each of the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioners fails to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police daily at 10.30.a.m two weeks and thereafter, as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

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

-sd/-
12/07/2018

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,
TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PALLAVARAM POLICE STATION,
CHENNAI

+1CC to M/S.MUTHUMANI DORAISAMI Advocate on payment of
necessary charges SR NO.12877

CRL OP.17606/2018

Date :12/07/2018

MK:18/07/2018