

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the First day of November Two Thousand Eighteen

PRESENT

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

CRIMINAL ORIGINAL PETITION No.24641 of 2018

S.UDAYAN

[PETITIONER / ACCUSED]

Vs

THE STATION HOUSE OFFICER,
NAGAR POLICE STATION,
PONDICHERRY
CR.NO.51 OF 2018.

[RESPONDENT]

For Petitioner : M/S.E.ANBARASAN Advocate

For Respondent : MR.BHARATHA CHAKRAVARTHY PUBLIC PROSECUTOR,
PONDICHERRY,

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences u/s 147, 148, 302 of IPC r/w 149 of IPC and Section 27(1) of Arms Act, in Crime No.51 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. Heard both sides.

3. This is the fifth application for anticipatory bail. The case of the prosecution is that the son of the defacto complainant and the sister of A1 were in love with each other and thereafter, due to some problem, she committed suicide. The further case is that in order to take vengeance, with the help of other accused, A1 had brutally murdered the deceased in the broad day light.

4. The learned counsel for the petitioner would submit that four anticipatory bail applications filed earlier on behalf of the petitioner were dismissed and this is the 5th application. He would submit that though the earlier petitions had been dismissed, the respondent police have not taken any steps to arrest the petitioner, since the petitioner is suffering with serious kidney ailment. He would further submit that all the other co-accused have been enlarged on bail. He would also submit that the over act attributed to him is that he had informed about the movement of the deceased to the other accused. Other than that he had not caused any injuries to the

deceased. He would also submit that investigation is completed and the final report has been filed and the same had been numbered as PRC No.16/2018 on the file of the learned Judicial Magistrate - I, Pondicherry and pending committal. He would further submit that the custodial interrogation of the petitioner may not be required, since the final report has been filed. Further he would submit that the petitioner is prepared to abide by any stringent condition imposed on him. He would further submit that the medical condition of the petitioner be taken into consideration and bail may be granted.

5. Mr.Bharatha Chakravarthy, learned Public Prosecutor for Pondicherry would submit that due to abscondance of the petitioner, the learned Judicial Magistrate - I, Pondicherry has issued Non Bailable Warrant for arrest of the accused and that the Magistrate is unable to commit the case to the Court of sessions.

6. On the earlier occasion this Court, directed the respondent to get details about the medical condition of the petitioner. The respondent has filed the medical certificate with regard to the ailment of the petitioner, issued by the Additional Professor, Department of Urology, JIPMER, Pondicherry. The certificate is extracted hereunder:

"This is to state that Mr.Udayan, Hospital No.F-358666 son of Srinivasan residing at Kamaraj Nagar, Puducherry is under follow-up in the Department of Urology, JIPMER Hospital since February 2011. He presented to the hospital with difficulty in passing urine, anemia and elevated renal parameters. He was diagnosed with Neurogenic bladder with bladder outlet obstruction. There was no vesicoureteric reflux on micturating cystourethrogram. The urodynamic study was suggestive of detrusor overactivity with bladder outlet obstruction. He had recurrent urinary tract infections, on an average, one episode per year. He is advised to perform clean intermittent catheterization with anticholinergic medicines for the treatment of his neurogenic bladder. His present serum creatinine is 2.3mg/dl as of February 2018. He presently has chronic kidney disease with stable serum creatinine since 2011. He needs to be on continuous anticholinergics and calcium drugs. He requires continuous followup once in three months to check the progression of his chronic kidney disease."

7. Taking into consideration the facts and circumstances of the case, though the earlier applications have been dismissed by this Court, the respondent police has not taken steps to arrest the petitioner. Further it is stated that the petitioner is on continuous treatment for severe kidney ailment, this Court is able to infer that it may be the reason, the respondent have not arrested the petitioner. There is no purpose in keeping the petitioner in continued abscondance. Further, the progress of the case is also

delayed due to non committal of the case.

8. Further taking into consideration the overt act of the accused that he had only given the information relating to the movement of the deceased and also the serious medical condition of the petitioner this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

9. (i) Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate - I, Pondicherry, within a period of 15 days from the date of receipt of a copy of this order, on his executing 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 Magistrate concerned.

[a] The petitioner shall report before the trial Court on all working days at 10.30 am till the case is committed to the Court of sessions and thereafter before the Sessions Court on all hearing dates and also appear before the respondent police every saturday at 11.00 a.m. until further orders.

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

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

[d] 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]**.

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

01/11/2018

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,
NO.I, PONDICHERRY

2 THE CHIEF JUDICIAL MAGISTRATE
PONDICHERRY[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
PONDICHERRY

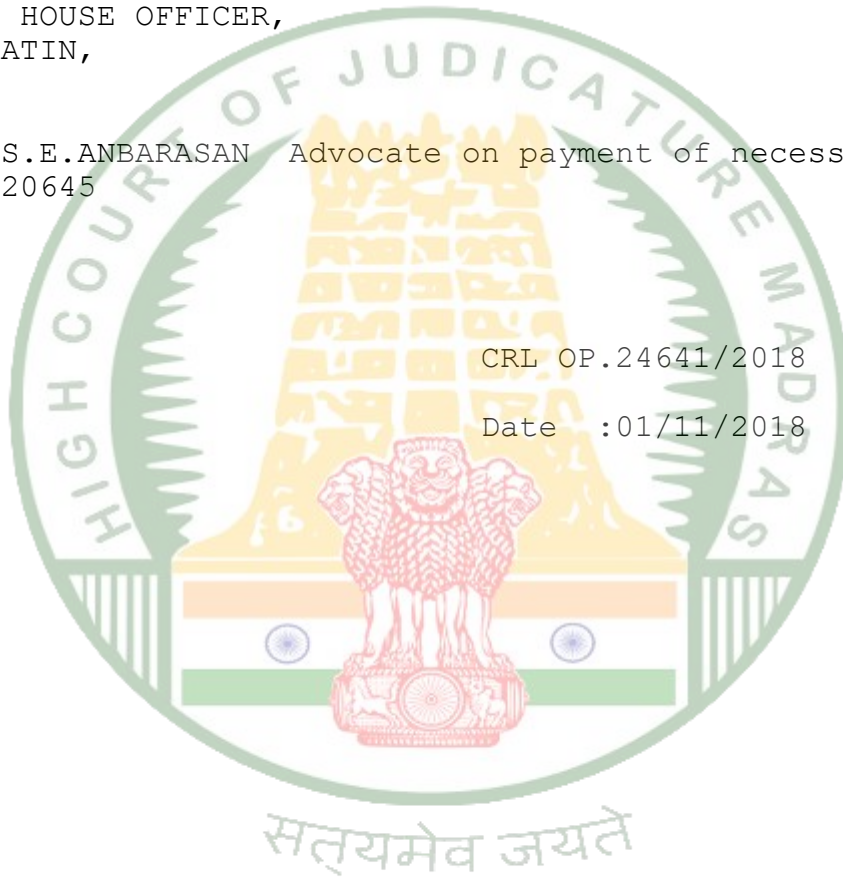
4 THE STATION HOUSE OFFICER,
NAGAR POLICE STATIN,
PONDICHERRY

+1 CC to M/S.E.ANBARASAN Advocate on payment of necessary
charges SR.NO. 20645

CRL OP.24641/2018

Date :01/11/2018

RD 02/11/2018



WEB COPY