

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Sixth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.5486 of 2019

1 SHANAVAS

2 ASHRAF

... PETITIONERS / ACCUSED NO.1 & 2

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

NITHIRAVILAI POLICE STATION,

KANYAKUMARI DISTRICT.

(CRIME NO.59 OF 2019)

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.L.SHAJI CHELLAN, Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl.Side)

For Intervenor : Mr.S.SURESHKUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioners who are apprehending arrest at the hands of the respondent police for the alleged offence under Section 304 of IPC in Cr.No.59 of 2019, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that due to wordy quarrel in Poothurai Mosque election the petitioners pushed the defacto complainant, thereby he fall down sustained injuries admitted in the hospital and died. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. He would also submit that the deceased died out of cardiac arrest for which he is not responsible. However without prejudice to his rights and contentions the petitioners are willing to pay Rs.2,00,000/- as compensation to the deceased family.

4. The learned counsel for the intervenor concede the request made by the learned counsel for the petitioners.

5.The learned Government Advocate(Crl.Side) appearing for respondent would submit that there are some abrasions in the body of the deceased. He would also submit that since the petitioners have come forward to pay Rs.2,00,000/- to the deceased family, this Court may pass appropriate orders.

6.Considering the facts and circumstances and also considering the fact that the fact that the petitioners have come forward to deposit some amount as compensation to the deceased family, this Court is inclined to grant anticipatory bail to the petitioners. 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 No.II, Kuzhithurai on condition that the petitioners 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 learned Magistrate concerned and on further condition that:

(a)The petitioners are directed to take D.D for Rs.2,00,000/- and hand over to the deceased family and proof shall be filed at the time of furnishing sureties and thereafter sureties shall be accepted.

(b) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the petitioners shall report before the respondent police daily at 10.30a.m until further orders

(d)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioners shall not abscond either during investigation or trial;

(f)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]**; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

26/04/2019

/ TRUE COPY /

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

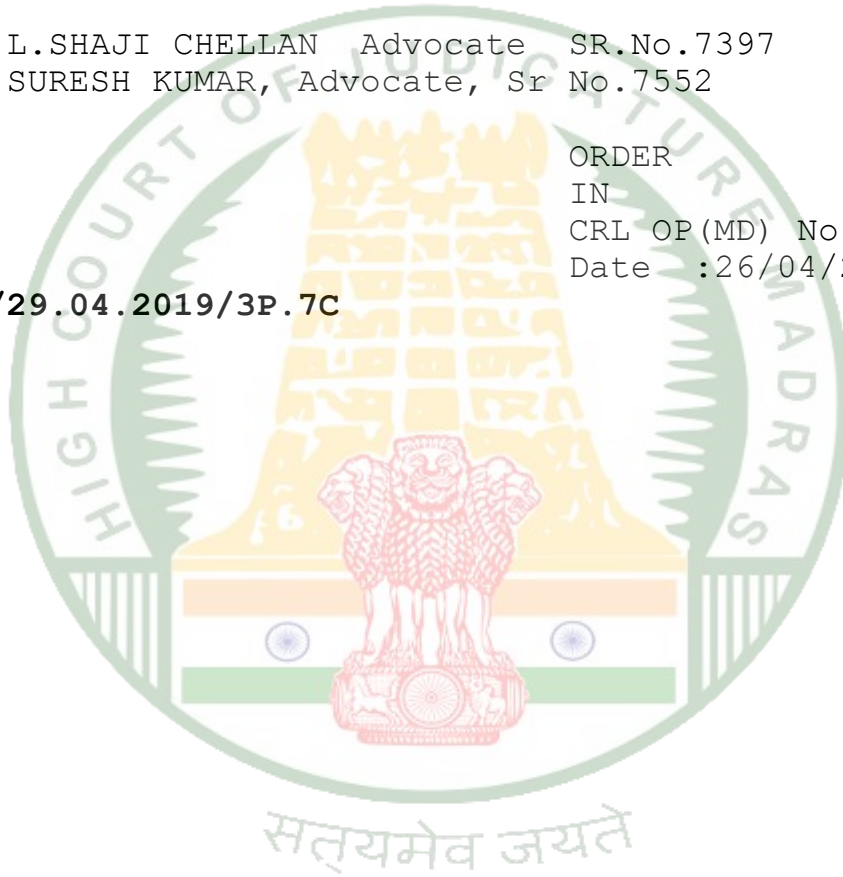
TO

1. THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE
NITHIRAVILAI POLICE STATION, KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.L.SHAJI CHELLAN Advocate SR.No.7397
+1CC TO Mr.S.SURESH KUMAR, Advocate, Sr No.7552

ORDER
IN
CRL OP(MD) No.5486 of 2019
Date :26/04/2019

MS/MMS/SAR-1/29.04.2019/3P.7C



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