

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

Thursday, the Sixteenth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.7056 of 2019

MANO @ MANO KUMAR

... PETITIONER / ACCUSED NO.3

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
TUTICORIN SOUTH POLICE STATION,
TUTICORIN DISTRICT,
(CRIME NO. 244 OF 2019)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.VEERAKATHIRAVAN, Senior Counsel
For MR.K.VINAYAGAM Advocate

For Respondent : MR.K.K.RAMAKRISHNAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner/A3, who apprehends arrest at the hands of the respondent Police, in connection with Crime No.244 of 2019, for the offence punishable under Sections 341,294(b), 302 and 506(ii), seeks anticipatory bail.

2.Heard Mr.Veerakathiravan, learned Senior Counsel for the petitioner and Mr.K.K.Ramakrishnan learned Additional Public Prosecutor appearing for the State.

3.The case of the prosecution is that on 19.04.2019 at 11:30 p.m., the accused attacked the deceased Mohan with Aruval and caused death.

4.The learned counsel for the petitioner would submit that the petitioner was not present in the scene of occurrence and there is no specific overt act attributed against this petitioner in the complaint. The only overt act available against this petitioner is that prior to the occurrence the deceased was talking with him through phone. He would also submit that the petitioner is a law graduate and he has been falsely implicated in this case. Further the first Information Report was registered on 20.04.2019 and the same reached the Court only on 21.04.2019 at 6.00 p.m.,

5.The learned Additional Public Prosecutor vehemently opposed for grant of anticipatory bail stating that the petitioner is the main accused in this case and he has invited and induced the deceased for the commission of offence and the offence under section 109 IPC is likely to be added. He would also submit that the delay in reaching the FIR on the jurisdictional Magistrate Court is not a material factor in this case, since the occurrence had taken place on 19.04.2019 at 11.30 p.m. and thereafter the deceased was taken to hospital, where he was given treatment and only after the demise of the deceased, the complaint was lodged on the same day (i.e.,) on 20.04.2019 at 4.00 a.m. and the First Information Report reached the Court on 21.04.2019 at 6.00 a.m and the delay in the First Information Report reaching the Court may not be considered at the time of considering the anticipatory bail.

6.Admittedly, the occurrence had taken place near the house of the deceased, the petitioner was not present in the scene of occurrence, and there is no specific overt act attributed against this petitioner. The occurrence had taken place on 19.04.2019 at 11.30 p.m. and the complaint was lodged on 20.04.2019 at 4.00 a.m., and there is no delay in the lodging the complaint. However, there is an ordinate delay in FIR relating the Court. This is a case of eye witness and the complaint was also registered on 20.04.2019. But the FIR reached the Court only on 21.04.2019 with delay of 26 hours.

7. Considering the facts and circumstances of the case and also considering the fact that there is no specific overt act attributed against the petitioner, and the delay in FIR reaching the Court, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

8.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 on which the order copy was made ready before the learned Judicial Magistrate No.I, Thoothukudi, on condition that the petitioner shall execute a separate 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 and on further conditions that:-

[a] the petitioner as well as the sureties shall submit a copy of their Aadhar card or any other identity cards issued by the Government, in proof of their address, along with the surety bonds.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m, and 4.30 p.m., until further orders.

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

[d] the petitioner shall co-operate for the investigation and the trial. The petitioner shall not abscond either during investigation or trial and in event of the petitioner absconds, the respondent police shall register a case as provided under Section 229-A IPC.

[e] in the event of breach of any of the aforesaid conditions, the learned Magistrate / trial Court is entitled to take appropriate action against the petitioner, as per the principles laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

sd/-
16/05/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
THOOTHUKUDI.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
 - 3 THE INSPECTOR OF POLICE,
TUTICORIN SOUTH POLICE STATION,
TUTICORIN DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.K.VINAYAGAN, Advocate (SR-8500[I] dated 16/05/2019)

ORDER
IN
CRL OP(MD) No.7056 of 2019
Date :16/05/2019

JM/JC/SAR 1/21.05.2019/3P/6C

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