



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

Monday, the Eighth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP (MD) No.8963 of 2019

S.SATHISHKUMAR @ SATHISH

... PETITIONER/SOLE ACCUSED

Vs

THE STATE REP BY

THE INSPECTOR OF POLICE,

KUNDRAKKUDI POLICE STATION, SIVAGANGAI DISTRICT.

(CRIME NO.80 OF 2019)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.K.N.GOVARDHANAN Advocate

For Respondent : M/S.V.NEELAKANDAN,

ADDITIONAL PUBLIC PROSECUTOR

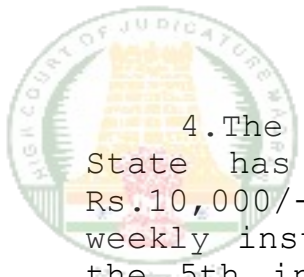
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 306 of IPC in Crime No.80 of 2019, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that as per the FIR, the deceased had borrowed a sum of Rs.10,000/- from the petitioner's finance and she paid only four installments and she could not pay 5th installment, hence, the petitioner contacted her over phone on 17.06.2019 and compelled her that if she failed to pay the 5th installment on or before 20.06.2019, he will come directly and defame her and she would face dire consequences and in pursuance of the said intimidation, she consumed poison on 20.06.2019. He further submitted that even if the allegations made in the F.I.R are taken as true at its face value, the same will not attract Section 306 of IPC. In support of the said contention, he relied upon the decision in Amit Vs.State of Maharashtra reported in 2018 Supreme (Mah) 985 and hence, he prayed for grant of anticipatory bail to the petitioner.



4. The learned Additional Public Prosecutor appearing for the State has submitted that the deceased had borrowed a sum of Rs.10,000/- from the petitioner's finance and she has paid four weekly installments at the rate of Rs.550/- but she could not pay the 5th installment and hence, the petitioner contacted her over phone and criminally intimidated her and compelled her to pay the amount on or before 20.06.2019 and because of the said act, the deceased consumed poison and committed suicide. He further submitted that investigation is at the initial stage. Therefore, he strongly opposed this petition.

5. In Amit Vs. State of Maharashtra (cited supra) the High Court of Bombay Bench at Nagpur in para 14 has observed as follows:-

"14. In the present case, taking the allegations at its face value, it cannot be said that any positive or proximate act is attributed to the present applicant. Assuming for a moment that the allegation that the applicant had contacted deceased personally or telephonically, that too, repeatedly asking for payment of installments, that cannot be said to be an instigation to a person to commit suicide, more particularly when according to the complainant, deceased was under mental stress and as such, being a sensitive person, possibility of deceased having no tolerance to face the situation of his owing any amount to financial institutions due to failure on his part to not to pay monthly installments in time and as such being under mental stress leading to commit suicide also cannot be ruled out. There is no material to indicate that applicant had either any intention to aid or instigate or abet the deceased to commit suicide as there is no reference to any direct or active part of applicant which led deceased to commit suicide. Even the chit found in the pant pocket of the deceased does not contain any such material to indicate any instigation or abetment on the part of applicant that could be treated as having led deceased to commit suicide."

6. Considering the fact that the petitioner had contacted the deceased over phone only on 17.06.2019 and told her that she has to pay the 5th installment on or before 20.06.2019, failing which she will face dire consequences, but, the deceased has consumed poison on 20.06.2019 and also the aforesaid decision, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain conditions.

7. 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, Karaikudi, on condition that 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) 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].

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

sd/-

08/07/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, KARAIKUDI
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT
3. THE INSPECTOR OF POLICE,
KUNDRAKKUDI POLICE STATION, SIVAGANGAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1. CC to M/S.K.N.GOVARDHANAN Advocate SR.No.11271

ORDER

IN

CRL OP(MD) No.8963 of 2019

Date : 08/07/2019