

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of March Two Thousand Twenty

PRESENT

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

CRIMINAL ORIGINAL PETITION No.5389 of 2020

R.KOTHANDAM

[PETITIONER / ACCUSED]

Vs

STATE REP.BY

[RESPONDENT]

THE STATION HOUSE OFFICER,
KALAPET POLICE STATION, KALAPET,
PONDICHERRY.

CRIME NO.46/2019

For Petitioner : M/S. B.BALAVIJAYAN Advocate

For Respondent : MR. BHARATH CHAKRAVARTHY,
ADDITIONAL PUBLIC PROSECUTOR [PUDUCHERRY]

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 Sections 109, 302 r/w 34 of I.P.C and under Section 1 of Explosives Substance Act, in Crime No.46 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that one Joseph was murdered by one Chandeirasekaran and his men few months earlier. To avenge the murder, A5 who is the son of Joseph and the other accused A6 to A10 who are the supporters of Joseph have engaged A1 to A4, the hirelings to do away with the said Chandeirasekaran with the help of A11 to A18, pursuant to which the said Chandeirasekaran was murdered on 23.09.2019.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case, since he happens to be the friend of Joseph. He would further submit that the petitioner is employed in the Co-operative Bank and during the relevant time the petitioner was working in the Bank. He would also further submit that the 6th accused who has been similarly placed and who was also not present at the scene of occurrence was granted anticipatory bail by this Court in CrI.O.P.No.34999 of 2019 dated 08.01.2020. He would submit that the petitioner is prepared to co-operate with the respondent police for investigation. Hence, he prays to grant of anticipatory bail to the petitioner.

4. The learned Public Prosecutor would submit that the petitioner is one of the supporter of one Joseph, who was murdered by the deceased, Chandeirasekar on 31.07.2018. In retaliation, the son of said Joseph and the petitioner through A11 and A12 engaged A1 to A4 to commit the murder of said Chandeirasekar on 23.09.2019 at about 11.00 hours. A1 to A4 waylaid the said Chandeirasekar and committed murder by using country made bombs and attacked him with knife due to which he died on the spot. He would further submit that the other accused have confessed that the petitioner is also part of the conspiracy to do away with the deceased.

5. Taking into consideration the fact that the petitioner was stated to be not present in the scene of occurrence and that similarly placed accused has been granted anticipatory bail by this Court in Crl.O.P.No.34999 of 2019 dated 08.01.2020, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate II, Pondicherry, on condition that the petitioner shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

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

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

[d] the petitioner 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 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].

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

-sd/-
11/03/2020

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.II, PONDICHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PONDICHERRY [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
PONDICHERRY.

4 THE STATION HOUSE OFFICER,
KALAPET POLICE STATION, KALAPET,
PONDICHERRY.

+1 CC to M/S. B.BALAVIJAYAN Advocate on payment of necessary charges SR.No.4886

+1 CC to THE PUBLIC PROSECUTOR, PUDUCHERRY SR.No.4902

CRL OP.5389/2020

Date :11/03/2020

cs 19/03/2020

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