

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.6088 of 2020

K.S.John Isac Ruban

... Petitioner

Vs.

1. The Inspector of Police,
Thiruvallur Taluk Police Station,
Thiruvallur District.

2. K.Rajasekaran

3. The Deputy Superintendent of Police,
Thiruvallur Taluk and District,
Thiruvallur.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.81 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.L.Murali Krishnan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 304 (2) of IPC, Section 9 of Prohibition of Employment as Manual Scavenger and their Rehabilitation Act 2013, Section 3 (1) (1) and 3 (2) (v) of SC/ST (Prevention of Atrocities) Act, 2013 in Crime No.81 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Rajasekaran is that he and the victims namely Velan and Chandrasekar are belong to the Hindu Adi Dravidar Community and that they are daily wages. The Manager of J.I.R. Engineering Industries had induced them on the promise of giving more money and asked them to manually

clean the effluent tank in the company. The Manager had prevented them from taking safety measures and based on the inducement, the said Velavan and Chandrasekar had gone into the tank subsequently, they were affected by poisonous gas and died inside the tank. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is an innocent and he is nothing to do with the alleged offence. Though the petitioner is the proprietor of the company, he was not present when the incident had happened and he was not aware that the victims belong to SC Community. Other than that, that the victims belong to SC Community, no offence can be attributed to the petitioner for having committing offence under the provisions of SC/ST (Prevention of Atrocities) Act and that the provisions under SC/ST (Prevention of Atrocities) Act has been invoked malafidely to see to that the petitioner does not obtain anticipatory bail. He would further submit that bare reading of the complaint would show that it does not make out a prima facie case for applicability of the provisions under SC/ST (Prevention of Atrocities) Act and thereby, the bar created by Section 18 and 18A(i) shall not apply. In support of his contention, the learned counsel relied on the judgement of the Hon'ble Apex Court reported in 2020 SCC Online SC 159 (Prathvi Raj Chauhan Vs. Union of India and others). He would further submit that the petitioner's company without prejudice to their contention, had already paid an amount of Rs.10 lakhs each to the families of the victims on 08.03.2020 by way of two cheques Nos.043251 and 043252 respectively, drawn at ICICI Bank, Chennai Main Branch. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The Additional Public Prosecutor would submit that the petitioner is the owner of J.I.R. Engineering Industry. The Manager of the company had engaged three persons belong to Hindu Adi Dravidar Community to clean the effluent treatment plant. Since, no precautions or safety measures were provided to them, the persons who had entered into the effluent tank were affected by poisonous gas and that they died inside the tank. He would further submit that the Manager of the company was arrested and he has been enlarged on bail. He would further submit that at the time of occurrence the petitioner was not present at the factory. However, he opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned Counsels on both sides and perused the F.I.R.

6. Though notice has been served on the second respondent and his name has been printed in the cause list, none appeared on behalf of the second respondent.

7. In the opinion of this Court, no prima facie case is made out for invoking the penal provisions under the SC/ST (Prevention of Atrocities) Act 1989 and thereby, there cannot be a bar for grant of anticipatory bail to the petitioner.

8. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order, before the learned Judicial Magistrate - I, Thiruvallur, 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 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 Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent for a period of one week and thereafter as and when required for interrogation.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

22/09/2020

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.I, THIRUVALLUR.

2 THE INSPECTOR OF POLICE
THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVALLUR TALUK AND DISTRICT,
THIRUVALLUR.

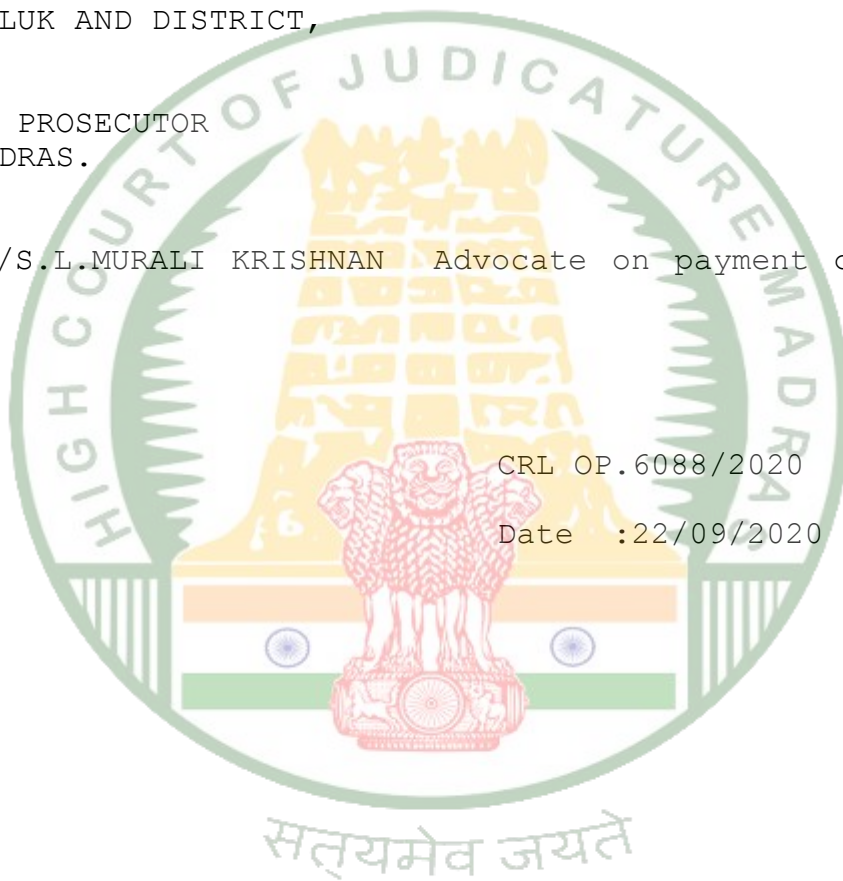
4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.L.MURALI KRISHNAN Advocate on payment of necessary
charges

cs 06/10/2020

CRL OP.6088/2020

Date :22/09/2020



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