

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2020

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr.L.O.P.No.8211 of 2020

Vendamani

... Petitioners

Vs.

The State Rep. by
Inspector of Police,
Taluk Police Station,
Thiruvannamalai.
(Cr.No.440 /2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.440 of 2020 on the file of the respondent police.

For Petitioner : Mr.KA.Prabaharan

For Respondent : Mr.Mohammed Riyaz

Additional Public Prosecutor

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ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Section 309, 307, 302 IPC , in Crime

No.440 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is said to have beaten her son named Siva Shankar and this was questioned by her husband. The petitioner being aggrieved by the same, took the extreme step of consuming rat poison and administered the same to her two children, who are aged about two years and four months respectively. It is the further case of the prosecution that Siva Shankar aged about two years died. Based on the complaint given by the father of the petitioner, the respondent police have registered an FIR against the petitioner for the above said offences.

3.The learned Counsel for the petitioner submitted that the petitioner was forced to take this extreme step only due to the continuous harassment on the part of the husband. The learned counsel further submitted that the petitioner has already lost one child and she has to take care of the four month baby and therefore, pleaded before this Court that the petitioner can be considered for grant of anticipatory bail and that the petitioner is willing to comply with any conditions as may be imposed by this Court.

4. Mr.Mohammed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent, vehemently opposed the petition and submitted that the petitioner had no right to administer the poison to her own children. The learned counsel further submitted that the defacto complainant in this case is the father of the petitioner. It was further submitted that the investigation is pending and considering the gravity of allegations made against the petitioner, the anticipatory bail petition may be dismissed.

5. This Court has carefully considered the submissions made on either side. This is a very unfortunate case where the petitioner, who herself looks like a victim, has taken the extreme step of taking rat poison and also administering the same to her own children. Unfortunately, two year old boy has also died. It is seen that there is a very serious matrimonial dispute between the petitioner and her husband. A four month baby which has survived, has to be taken care and it cannot be left in lurch. This Court is *prima facie* convinced that the petitioner has already undergone untold mental agony. If the petitioner is put on terms, this Court is convinced that the respondent police can proceed further with the investigation without any hindrance.

6. Taking into consideration the facts and circumstances of the case and the reasons stated herein above, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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 made ready, before the learned Judicial Magistrate II, Thiruvannamalai on condition that the petitioner 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, 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 is directed to appear before the respondent police on Monday and Friday at 10.30 a.m, until further orders.

[c] the petitioners 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 persons thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

08.06.2020

Internet : Yes/No

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To.

1. The Principal District and Sessions Judge,
Thiruvannamalai, Thiruvannamalai District.

2. The Judicial Magistrate No.2, Thiruvannamalai.

N.ANAND VENKATESH,J

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3. The Inspector of Police

Taluk Police Station,

Thiruvannamalai..

4. The Public Prosecutor,

High Court, Madras.



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