

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.9603 of 2020

Ashok Kumar

... Petitioner

/vs/

Station House Officer, Nellikuppam, P.O.,
(Ref Cr.No.263/2020 dated 15.04.2020)
D1, Nellikuppam Police Station,
Cuddalore to Panruti Main Road,
Panruti Taluk,
Cuddalore - 607 105
(Crime No.263 of 2020)

... Respondent

Prayer : Criminal Original Petition has been filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of the arrest of the petitioner in Crime No.263 of 2020 on the file of the respondent police.

For Petitioner : Mr. Adith Narayanan Vijayaraghavan

For respondent : Mr. Mohamed Riyaz,
Addl. Public Prosecutor

ORDER

Though the earlier petition filed by the petitioner was dismissed by some other Judge of this Court, due to pandemic Corona, this Court is inclined to take the petition for hearing.

2. The petitioner who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 304(ii) and 201 of IPC read with Section 135(1)(a) of the Electricity Act, 2003, seeks anticipatory bail.

3. The case of the prosecution is that the petitioner has fenced his paddy field with electric fence. On 15.04.2020 at 6.30 a.m., when the defacto complainant's father went to the paddy field of the petitioner to cut grass for his cow, he was electrocuted and died. The petitioner removed the fencing and kept the dead body of the defacto complainant's father in his sugar cane field. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution. The petitioner is not having any criminal antecedent and he has been falsely implicated in this case. Therefore, he prays to grant anticipatory bail to the petitioner.

5. The learned Additional Public Prosecutor would submit that the defacto complainant's father was electrocuted on 15.04.2020 due to illegal electric fencing of the petitioner. The investigation is pending. The earlier anticipatory bail petition filed by the petitioner in CrI.O.P.No.8033 of 2020 was dismissed by this Court on 29.05.2020 and there is no change of circumstances after dismissal of the earlier anticipatory bail and hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6. It is seen that the petitioner has mentioned in his petition that this Court has erroneously dismissed the earlier anticipatory bail petition filed by the petitioner in CrI.O.P.No,8033 of 2020. The relevant portion of the petition reads as follows :-

" F. The Hon'ble High Court of Madras erred in dismissing CrI.O.P.No.8033 of 2020.
5.11. The petitioner humbly submits that the Hon'ble High Court vide orders dated 29.05.2020 erroneously dismissed the anticipatory bail petition CrI.O.P.No.8033 of 2020 filed by the petitioner herein. The Hon'ble Judge failed to appreciate that the offences enlisted in the FIR in Cr.No.263 of 2020 did not require custodial interrogation of the petitioner. "

It is very curious to note that though the petitioner is entitled to file a second Anticipatory Bail petition under Section 438 Cr.P.C, he cannot file the petition as appeal as against the dismissal of the earlier anticipatory bail petition. Hence, it cannot be maintained. Further there is no change in circumstances to consider the petitioner's second petition. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

-sd/-
29/06/2020

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 STATION HOUSE OFFICER
NELLIKUPPAM POLICE STATION,
D1, NELLIKUPPAM POLICE STATION,
CUDDALORE TO PANRUTI MAIN ROAD,
PANRUTI TALUK,
CUDDALORE - 607 105.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. ADITH NARAYAN VIJAYARAGHA Advocate on payment of
necessary charges

cs 24/07/2020



WEB COPY