

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15075 of 2020

T.Gnana Prakasam

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Thiruvottiyur Police Station,
Chennai City Police,
Tiruvallur District.
(Cr.No.5504 of 2020)

... 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.5504 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.R.John Sathyan

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

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 306 of IPC, in Crime No.5504 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Madumitha W/o. Rajesh Kumar is that her husband was an Advocate in the High Court. While so, on 02.09.2020, her husband had gone to father-in-law's house and had committed suicide. A suicide note was found in the shirt pocket of her husband stating that one Selvadurai and Gnanaprakasam received money from various persons on the false assurance of getting jobs in the Courts and when the persons had asked for return money from Selvadurai and Gnanaprakasam, they have threatened her husband and taken a letter of undertaking from him stating that he is responsible for the money and also threatened his family and due to mental agony and stress he had committed suicide. Hence, the

complaint

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner is a Saree Vendor and that he got acquainted with one Selvadurai and his wife Selvi, who are his customers. The said Selvadurai and Selvi had introduced the deceased, who claimed himself to be a Personal Assistant to a Hon'ble Judge of the High Court and all the three persons have induced and given assurance to the petitioner that they will be able to secure jobs in the various Courts and on believing the assurance given by them, the petitioner and the persons known to him have handed over money to the deceased in the presence of Selvadurai and Selvi. Thereafter, the deceased, Selvadurai and Selvi had issued appointment orders to the petitioner and the persons known to him and later which were found to be fabricated one and thereby, the persons known to the petitioner have put pressure on the petitioner. Therefore, the petitioner along with the other victims had met the deceased, who was later found to be a practising advocate in the High Court and he had falsely claimed himself to be a Personal Assistant to a Hon'ble Judge. Since, the victims wanted to take action against the deceased, he had given assurance that he would repay the money to the victims and he had also given an undertaking to repay the money and however, he did not return the money and cheated the petitioner and persons known to the petitioner. Thereby, the petitioner had given a complaint on 21.08.2020 before the Superintendent of Police, Kancheepuram and later the petitioner understands that the police had called the deceased for enquiry and thereafter, he had committed suicide by hanging on 02.09.2020. He would submit that the petitioner and his relatives are the persons, who have been cheated by the deceased and that except the alleged suicide note, there is no other material to show that the petitioner had abetted the victim to commit suicide. Hence, he would pray for anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim viz., Rajesh Kumar is an Advocate and had committed suicide by hanging at his father's house and that based on the complaint given by the wife of the deceased a case was registered under Section 306 of IPC. He would submit that the suicide note had been recovered from the shirt pocket of the deceased, wherein, he had stated that he committed suicide due to the harassment and torture given by the petitioner and one Selvadurai. Hence, he opposed to grant anticipatory bail to the petitioner.

5. This Court on the earlier occasion, had directed the respondent to verify and find out whether any complaint was given by the petitioner to the Superintendent of Police, Kancheepuram on 21.08.2020. On verification, it is reported by the respondent that a counter petition has been given by one Gnanaprakasam, his wife Latha and one Meena against the petitioner and that there is no mention about the deceased Rajesh Kumar.

6.At this juncture, the learned counsel appearing for the petitioner would submit that the respondent is referring to the complaint given by one Gnanaprakasam, whereas, the petitioner had given a complaint against the deceased as early as on 21.08.2020, wherein, the petitioner had made specific allegations against the deceased that he had cheated the petitioner and his relatives by claiming himself to be a Personal Assistant to a Hon'ble Judge of this Court and that he had received money from more than 20 persons on the assurance of getting jobs and that he had also issued fake appointment letters.

7.Heard the learned counsel on either side and perused the materials placed on record including F.I.R.

8.Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

9.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **the Judicial Magistrate, Thiruvottiyur** 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 police everyday 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

18/11/2020

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,
THIRUVOTTIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUVOTTIYUR POLICE STATION,
CHENNAI CITY POLICE,
TIRUVALLUR DISTRICT.

5 THE SUPERINTENDENT OF POLICE,
KANCHEEPURAM.

+1 CC to M/S.R.JOHN SATHYAN Advocate on payment of necessary charges SR.No 7671

WEB COPY

CRL OP.15075/2020

Date :18/11/2020

MN-03/12/2020