

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.17136 of 2020

1.E.S.Manian @ E.Subramanian

... Petitioners

2.S.Pownammal

Vs.

State rep.by

... Respondent/Complainant

The Inspector of Police,
Velipalaiyam Police Station,
Velipalaiyam,
Nagapattinam.

[Crime No.1595 of 2020]

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.1595 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Veerasekharan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Section 174 Cr.P.C, in Crime No.1595 of 2020, on the file of the respondent, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Mohan Doss is that he is in the wholesale business of selling fish and his wife was in-charge of the accounts. While so, his wife's maternal uncle's sons namely E.S.M.Suresh and E.S.M.Sudhakar were also doing same business and they were purchasing fish for higher price, due to which, the defacto complainant suffered severe loss for the past two years. Therefore, there used to be frequent quarrel. While so, on 15.10.2020, the wife of the defacto complainant had gone to the house of her maternal uncle and rang the calling bell and when her uncle and

sons had come out, she had told them that she is going to commit suicide because of them and also self-immolated herself. Thereafter, her maternal uncle had admitted her in the Government hospital. At that time, she had informed Medical Officers that E.M.S.Suresh and E.M.S.Sudhakar are the persons responsible for her suicide and had also given a dying declaration to the learned Magistrate. Thereafter, she was admitted in a private hospital where she succumbed to injuries. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that as per the First Information Report, there was a business rivalry between the sons of the petitioners and the defacto complainant's family. Therefore, the petitioners have been falsely implicated in this case. He would further submit that the first petitioner is the maternal uncle of the deceased and the second petitioner is the wife of the first petitioner and that on 15.10.2020, the wife of the defacto complainant had come to the house of the petitioners and she threatened them saying that the petitioners are responsible for her suicide. But there is no averment in the complaint that the petitioners abetted the victim to commit suicide. He would further submit that even as per the First Information Report, the defacto complainant had made certain allegations only against the sons of the petitioners. He would submit that the name of the petitioners does not find place in the First Information Report and the petitioners are senior citizens and they have been unnecessarily implicated in this case. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioners and the deceased are the relatives and there was a business rivalry between them. Due to the act of the family members of the petitioners, the defacto complainant and his wife suffered severe loss, due to which, on 15.10.2020, the victim had gone to the petitioners' house saying that the sons of the petitioners are responsible for her suicide and self-immolated herself. Later, she was taken to the hospital where she succumbed to burn injuries. During treatment, a dying declaration has been recorded by the learned Magistrate wherein she had made specific allegation against the sons of the petitioners and the second petitioner. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners would submit that there is no allegation against the second petitioner as if the second petitioner abetted the victim to commit suicide.

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

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period

of fifteen (15) days from the date on which the copy of the order is made ready, before **the learned Judicial Magistrate No.I, Nagapattinam** on condition that the petitioners shall execute a separate 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 petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aaksa-2ar card or Bank pass Book to ensure their identity.

[b] **the petitioners shall report before the respondent Police every day at 10.30 a.m. for a period of two weeks and thereafter, every Monday 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 petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 229A IPC.

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

-sd/-
03/11/2020

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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, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VELIPALAIYAM POLICE STATION,
VELIPALAIYAM,
NAGAPATTINAM.

+1 CC to M/S D.VEERASEKHARAN Advocate on payment of necessary
charges SR.NO.7238

CRL OP.17136/2020

Date :03/11/2020

TA-09/11/2020



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