

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17248 of 2020

1.Suresh
2.Sudagar

... Petitioners

Vs.

State rep. by
The Inspector of Police,
Velipalaiyam Police Station,
Velipalaiyam
Nagapattinam
(Crime No.1595 of 2020)

... Respondent

PRAYER: The Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in connection with Crime No.1595 of 2020 on the file of the respondent police.

For Petitioners : Mr.D.Veerasekaran

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

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 174 Cr.P.C and 306 I.P.C. in Crime No.1595 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant viz. Mohandoss is that he is in the wholesale business of selling fish and his wife was in-charge of the accounts. The defacto complainant has been engaged in the said business for the past 20 years. The further allegation is that the accused who are the sons of his wife's maternal uncle viz. Suresh and Sudagar are also in the same business. The accused have been purchasing fish at a higher rate, due to which, the defacto complainant and his family suffered severe loss for the past two years, thereby, his wife used to accuse the accused stating that they are facing loss due to the competition of her cousins and there were frequent quarrels between them

regarding this. While so, on 15.10.2020 at about 5.30 am, the defacto complainant's wife started from her house in her two wheeler and doused herself with petrol and had gone to the house of her maternal uncle and rang the door bell. When the door was opened, she told her maternal uncle that she is going to commit suicide due to the interference of his sons in their business and set herself on fire using a match stick. Thereafter, her maternal uncle and the 2nd petitioner/accused doused the fire and took her to a Medical Officer, where the dying declaration was recorded. Thereafter she was taken to the Nagapattinam Government Hospital for treatment and from there she was shifted to a private Nursing Home for better treatment. While so, on 22.10.2020, the defacto complainant's wife succumbed to burn injuries. Hence the complaint.

3.The learned Senior counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. Admittedly, the petitioners and the defacto complainant's family were in the wholesale business of purchasing and selling fish. The petitioners were purchasing fish for higher prices and that could not be stated to be the reason for the suicide of the defacato complainant's wife. Admittedly, the victim herself had started from her house in her two wheeler, doused petrol over herself and came to the house of the petitioners, rang the door bell and lit herself on fire and that the petitioners are not responsible for the loss in the business and that there is also no averment that the petitioners abetted the victim to commit suicide. He would further submit that at the time of occurence, the petitioners were not present in the scene of occurrence and only after she self immolated herself, the father of the petitioners and the 2nd petitioner/accused had extinguished the fire and had taken her to a nearby hospital in order to save her life. He would further submit that the business motive or rivalry could not be taken as a reason for abetment to commit suicide. Further, in order to bring the case under the definition of abetting suicide, the person alleged should to have played an active role in the act of instigation or caused to facilitate the defacto complainant's wife to commit suicide. In this case other than the alleged enmity on account of the business rivalry, there is nothing to show that the petitioners have abetted the victim to commit suicide and there is no active instigation. He would further submit that the petitioners cannot be made to suffer incarceration for no act of theirs. He would further submit that the father of the petitioners has been granted anticipatory bail by this court vide order dated 03.11.2020 in CrI.O.P. No.17136 of 2020.

4.The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the petitioners and the deceased are relatives. He would further submit that since the petitioners had purchased the fish at a higher rate, there was business rivalry between them. The family of the defacto complainant and the victim suffered severe loss for the past two years, on account of which, on 15.10.2020 the victim doused herself with petrol and went to the house of the petitioner and saying that the petitioners are responsible for her suicide, immolated herself. She was taken to the hospital by her maternal uncle and the 2nd

petitioner, later she succumbed to burn injuries. He would further submit that the dying declaration was recorded by the learned Magistrate, wherein, a specific allegation was placed against the petitioners.

5. Heard the learned counsel on either side. Perused F.I.R, and other materials placed on record.

6. Taking into consideration of the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain 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 days from the date on which the order copy 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, for a like sum 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 Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall stay at Chennai and report before the Triplicane Police Station everyday at 10.30 a.m., 10.30 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
15/12/2020

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, 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.

5 THE OFFICER INCHARGE
TRIPPLICANE POLICE STATION,
CHENNAI.

+1CC to M/S. D.VEERASEKARAN Advocate on payment of necessary charges SR.No.8238

WEB COPY

CRL OP.17248/2020

Date :15/12/2020

cs 21/12/2020