

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.18199 of 2020

Desappan

... Petitioner

Vs.

State Rep by

Inspector of Police,

Pothatturpet Police Station,

Thiruvallur.

(Crime No.1238 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Criminal Procedure Code to enlarge the petitioner in the event of his arrest in Crime No.1238 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 174 (3) Cr.P.C., and altered in under Section 147, 498(A), 306 of IPC in Crime No. 1238 of 2020, on the file of the respondent, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Arumugam is that his youngest daughter Shilpa aged about 17 years, fell in love with son of the petitioner namely China/A1, who belongs to Vanivilasapuram New Colony. Thereafter, their marriage was conducted with the consent of both families during the year 2019 and they were living together without any problem for a month. Later, the husband of the victim/A1 along with his relatives have harassed the daughter of the defacto complainant, due to which, she used to come to the house of the defacto complainant. While so, on 30.07.2020, when the victim had gone to work from the house of the defacto complainant, the husband of the vicim, had stopped her and assaulted her, due to which, she came back to home and committed suicide by self-immolation. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case since, he happens to be the father of A1. He would submit that the marriage between the A1 and the victim was a love marriage. However, due to the drinking habits of the A1, there was a matrimonial dispute between the A1 and the victim and thereby, the victim had gone to her father's house and stayed there. He would submit infact A1 had gone to the victim's father's house to request her to come and join him. Whereas, since, A1 was having drinking habit, the victim refused to join him and later she committed suicide by self immolation. Even as per the F.I.R., the defacto complainant has stated that the marriage between the petitioner and the victim was a love marriage and on coming to know about their love, their marriage was conducted with the consent of the parents of both the petitioner and the victim. However, having lost of his daughter, the defacto complainant has given such a false complaint against the petitioner and his family members. He would further submit that the co-accused have been granted anticipatory bail by this Court in Crl.O.P.No.14354 of 2020. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor would submit that the defacto complainant's daughter/Shilpa married one Chinna/A1 during the year 2019 and it was a love marriage. Initially, they lived happily and thereafter, the petitioner and his family members used to harass her. Further, there used to be a frequent quarrel between the deceased and her husband/A1 and thereby, the deceased had left the matrimonial home and was living with her father/defacto complainant herein. On 30.07.2020, when the victim was standing in the Bus stand to go to her work, the husband of the victim has assaulted her, due to which, she came back home and committed suicide by self-immolation. He would further submit that the investigation is pending and opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and the fact that the co-accused in this case has been granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date on which the order copy is made ready, before the District Munsif cum Judicial Magistrate, Pallipet, 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 conditions that:

(b) the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

(d) the petitioner shall not tamper with evidence or witness either during investigation.

(e) the petitioner shall not abscond either during investigating or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial 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];

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
सत्यमेव जयते 19/11/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
PALLIPET.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

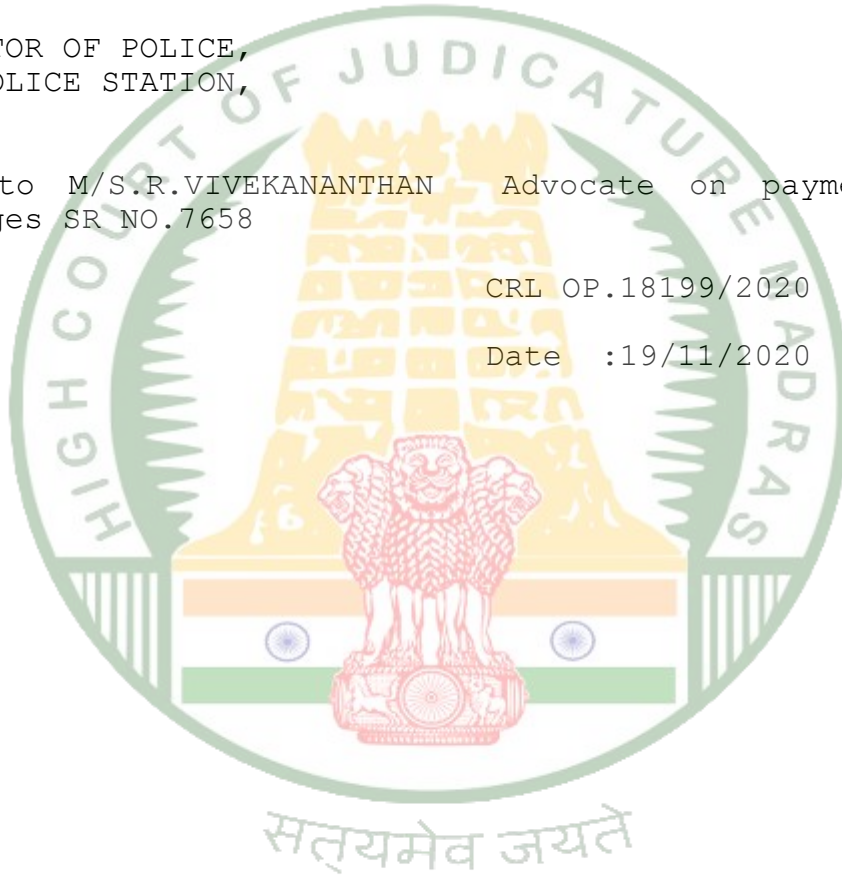
4 THE INSPECTOR OF POLICE,
POTHATTURPET POLICE STATION,
THIRUVALLUR.

+1CC to M/S.R.VIVEKANANTHAN Advocate on payment of
necessary charges SR NO.7658

CRL OP.18199/2020

Date :19/11/2020

MK:20/11/2020



WEB COPY