



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/10/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP (MD) . No.10536 of 2020

Alvin Daniel @ Seethalai

... Petitioner/Accused No.3

Vs

The State Rep. by
The Inspector of Police,
Thuckalay Police Station,
Crime No.58/2018.

... Respondent/Complainant

For Petitioner : Mr.G.Thalaimutharasu,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 58/2018 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A3, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 201 and 302 of IPC, in Crime No.58 of 2018 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the deceased is the husband of A1 and A1 is having illegal intimacy with the petitioner and A2, which was questioned by the petitioner, in which, the petitioner, A1 and A2, said to have conspired and advised A1 to give poisonous tablets to the deceased. Thereafter, the petitioner went to abroad for his employment. Subsequently, on 09.02.2007, A1 said to have given tablets to the deceased and caused his death, and A1 and A2 said to have buried the body of the deceased behind their house. After 11 years, in the year 2018, A1 in this case was arrested in some other crime and she voluntarily gave a confession



statement to the police, states that A1 and A2 caused the death on her husband. Hence, the respondent Police has commenced the investigation and the skeleton of the deceased was recovered from the backyards of A1's house. Based on the confession of A1, the petitioner was also arrayed as A3. Hence, the present complaint.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

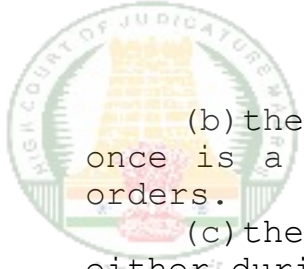
4. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that at the time of occurrence, he was in abroad. Hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that on 09.02.2007, A1 said to have given tablets to the deceased and caused his death. Thereafter, A1 and A2 have buried the body of the deceased behind their house. Subsequently, A1 was arrested in some other crime in 2018 and she voluntarily gave a confession statement, based on that, the petitioner was arrayed as accused.

6. Considering the facts and circumstances of the case and also considering the rival submissions made on either side and on perusal of the materials available on records, it is seen that the occurrence said to have taken place in the year 2007 and complaint has been filed in the year 2018, after eleven years. It is also seen that even as per the confession of A1, the allegation against the petitioner is that he had illegal intimacy with A1, in the year 2007 advised A1 to murder the deceased, thereafter, he left India for his employment and A1 and A2 murdered the deceased and buried the body. Considering the above circumstances and the main allegation only against A1 and A2 and there is no other serious allegation against the petitioner, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate I, Padmanabhapuram, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 once in a week (ie.,) on Every Monday 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]; and;

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

sd/-

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.I,
PADMANABHAPURAM,
KANYAKUMARI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.10536 of 2020

Date : 01/10/2020