



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/12/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.14613 of 2020

1. J.Wilson Amalraj
2. Godwin Jesudossan ... Petitioners/Accused Rank Not Known

Vs

The State rep.by
The Inspector of Police,
Kadayalmoodu Police Station,
(Arumanai Circle)
Kanyakumari District.
Crime No. 108/2020. ... Respondent/Complainant

For Petitioners : M/s.M.M.Manivelpandian,
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. 108/2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused No.Rank Not Known, apprehending arrest at the hands of the respondent Police for the offences punishable under Section 174 Cr.P.C. (Suspicious death) @ Sections 294(b), 506(i), 419, 420, 304 of IPC and Section 15 (3) of the Indian Medical Council Act, in crime No.108 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that A1 is a Homeopathy Doctor and running a Clinic in the name and style of Das Clinic. without any qualification, A1 treated the patients in the allopathy medicine and treated 12 year old boy and injected injection and after two days he died. Hence, the complaint.



3.The learned counsel for the petitioners would submit that the petitioners the petitioners are father and son and A1 is their distance relative and on 31.08.2020, A1 was attended a marriage function, which is nearest place from the petitioners' area, on the day after, he came to the the petitioners' home for their good relationship. In fact, A1 is a Homeopathy Doctor and running a Clinic in the name and style of Das Clinic, without any qualification, A1 treated the patients in the allopathy medicine and treated 12 year old boy and injected injection and after two days he died. The petitioners are nothing to do with the crime as alleged by the prosecution. Hence, he prayed for granting anticipatory bail to the petitioners.

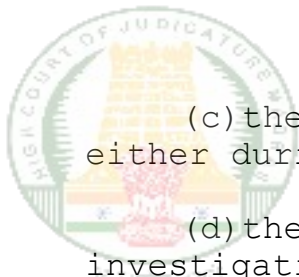
4.The learned Government Advocate(Crl.Side) would submit that A1 and his wife are Homeopathy Doctor and running a Clinic in the name and style of Das Clinic, without any qualification, A1 treated the patients in the allopathy medicine and he treated 12 year old boy and injected injection and after two days he died. He would further submit that the petitioners are arrayed as A5 and A6 and the investigation is still pending.

5.Considering the facts and circumstances of the case and also considering the fact that A1 and A2 are qualified doctor and the petitioners herein are arrayed as A5 and A6 and there is no other serious allegations against these petitioners and the A1 was arrested and subsequently, he was released on bail by this Court in Crl.O.P.(MD).No.11777 of 2020, dated 28.10.2020, and A1's wife was granted anticipatory bail by this court in Crl.O.P.(MD)No.13545 of 2020, dated 30.11.2020, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 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 report before the respondent police as and when required for interrogation;



(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;

WEB COPY (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]**; and;

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

sd/-

16/12/2020

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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, KUZHITHURAI.

2.DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3.THE INSPECTOR OF POLICE,
KADAYALMOODU POLICE STATION,
(ARUMANAI CIRCLE) KANYAKUMARI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.14613 of 2020

Date :16/12/2020

Ls

AE/SMA/SAR-IV (22.12.2020) 3P / 5C

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