

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2021

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.93of 2021

Kalimulla

... Petitioner

Vs.

The State rep. by
The Inspector of Police
Hosur Town Police Station,
Krishnagiri District.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.704 of 2020, on the file of the Respondent police.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest for the alleged offences under Sections 304(ii) of IPC and Section 15 of Medical Council Act 1956 in Crime No.704 of 2020, on the file of the respondent/Police, seeks anticipatory bail.

2. There are totally two accused in this case and the petitioner is A2. The allegation is that the petitioner is running a medical shop in the name and style of Sheeba Medicals at Thorapalli Agraharam Village. It is also alleged that the petitioner's wife (A1), who is a diploma holder in Siddha Medicine running a clinic in the very same medical shop. The victim girl, aged 15 years, who was complaining with head-ache approached the petitioner for treatment. Whereas, A1 is said to have put an injection, due to which the victim girl died. Hence, the complaint has been registered. Initially, the case has been registered under Section 174 of Cr.P.C and subsequently, it was altered to Section 304(ii) of IPC and Section 15 of Medical Council Act 1956.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the medical shop and he is no

way connected with the occurrence and he has been falsely implicated in this case. He would further submit that the wife of the petitioner, namely A1 in this case has been arrested and enlarged on bail by this Court in Crl.O.P No.9317 of 2020 dated 02.07.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner is husband of A1 and both the accused have been running a medical shop and clinic. The allegation is that the wife of the petitioner, viz.,A2 had given treatment to the victim girl, who is aged 15 years, without any authorization, due to which, the victim died. He would further submit that A1 in this case has already been arrested and released on bail. Hence, he opposed to grant anticipatory bail to the petitioner.

5. Considering the the fact that the victim girl, who is aged 15 years died due to wrong treatment given by the petitioner's wife (A1) and also, it is stated that A1 in this case was running a siddha clinic and the petitioner is only a owner of the medical shop and also the arrested accused has been released on bail, this Court is inclined to grant anticipatory bail to the petitioner by imposing stringent condition to deposit an amount of Rs.1,00,000/- to the victim's family.

6. Accordingly, the petitioner is directed to deposit an amount of Rs.1,00,000/- (Rupees one lakh only) to the credit of Crime No.704 of 2020. on the file of the Judicial Magistrate No.II, Hosur Magistrate, within a period of four weeks from the date of receipt of a copy of this and on such deposit, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, No.II, Hosur, 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 this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his 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 is directed to deposit an amount of Rs.1,00,000/- (Rupees one lakh only) to the credit of Crime No.704 of 2020. on the file of the Judicial Magistrate No.II, Hosur Magistrate, within a period of four weeks from the date of receipt of a copy of this order and on such deposit, the learned Magistrate is directed to pay the amount to the victim's family.

[c] the petitioner shall report before the respondent Police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required for interrogation.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

11/01/2021

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.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
HOSUR TOWN POLICE STATION,
KRISHNAGIRI DISTRICT.

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.93/2021

Date :11/01/2021