

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.1627 of 2021

1. Thulasimani
2. Nagarajan

... Petitioners

-Vs-

State by,
The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore District.
(Crime No.17 of 2021)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on Anticipatory bail, in the event of their arrest, pending investigation in Crime No.17 of 2021 on the file of the Periyanaickenpalayam Police Station, Coimbatore District.

For Petitioners: Mr.D.Ashok Kumar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The case has been heard through video conference

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Section 302 of IPC, in Crime No.17 of 2021, on the file of the respondent/Police, seek anticipatory bail.

2. Totally, there are four accused and the petitioners are arrayed as A3 and A4. The allegation is that while the deceased Sureshkumar earlier working in the chicken shop, run by A1/Ganesan, he had illicit intimacy with the first petitioner/A3, who is wife of A1 /Ganesan. However, the first petitioner had left the matrimonial home and A1 had also removed the deceased from the job. Thereafter, when the deceased went to the house of the petitioners, there was a wordy quarrel between them, thereby he has attacked the first petitioner/ A3. After coming to know about the same, brothers of A1 and A2 went to the house of the petitioners, and caused death by putting up big stone boulder on the head of deceased. Hence, the Criminal case has been registered against the petitioners.

3.The learned counsel for the petitioners would submit that the first petitioner is the wife of A1 and second petitioner is the father of the first petitioner. He would submit that, earlier the deceased was working in A1's shop and there was a dispute between them, hence he has removed him from the job. On the date of occurrence, the deceased came to the house of the petitioners and attacked A1 with knife and caused serious injuries and also attacked the second petitioner. After knowing the same, A1 and A2 went to the scene of occurrence and attacked the deceased, thereby caused his death. In fact, only the deceased had attacked the petitioners, and the first petitioner was admitted in the Hospital. Hence, he prays for anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the deceased Sureshkumar had illicit intimacy with the first petitioner and A1 is the husband of the first petitioner. He would further submit that on the date of occurrence deceased Sureshkumar, went to the house of the petitioners and attacked them with knife and caused serious injuries to him. At that time A1 and A2, came to the scene of occurrence and attacked the deceased. He would further submit that A1 and A2 have been arrested. However, he vehemently opposed grant of anticipatory bail to the petitioners.

5. Taking into consideration the fact that there is no specific overt act attributed against the petitioners and A1 and A2 arrested. So far as these petitioners are concerned, earlier the deceased attacked them and caused injuries to A3 and she was admitted in hospital. Considering those circumstances, this Court is inclined to grant anticipatory bail to the petitioners subject to the following 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 fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate Court No.V, Coimbatore, on condition that the petitioners shall execute a separate 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 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 daily at 10.30 a.m., 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.

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

-sd/-
22/02/2021

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 COURT NO V,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERIYANAICKENPALAYAM POLICE STATION,
COIMBATORE.

+1 CC to M/S D.ASHOKKUMAR Advocate on payment of necessary charges SR NO. 2082

CRL OP.1627/2021

Date :22/02/2021