

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the First day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4804 of 2021

NITHYA

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
MADHURAVOYAL POLICE STATION,
CHENNAI.
CRIME NO. 82/2021

[RESPONDENT]

For Petitioner : M/S.G.MOHAMMED ASEEF Advocate

For Respondent : M/S. S.KARTHIKEYAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner is A2. Apprehending arrest at the hands of the respondent police for the alleged offence under Section 304(2) of IPC on the file of the respondent police in Crime No.82 of 2021, the petitioner seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is the owner of the Well and in order clean the same, through A1 she engaged the deceased. The deceased while getting into Well, inhaled the poisonous gas emanated from the Well and died on the spot. Hence, the respondent police registered a case against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a lady and she is the owner of the Well, she only engaged A1 and A1 only engaged the deceased to clean the Well. She was not aware of the fact that the poisonous gas found in the well and the deceased also without verifying the same, get into the Well and died. Now A1 was arrested and released on bail. The petitioner has also paid a sum of Rs.2,25,000/- as compensation to the deceased

family. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner only engaged the deceased for cleaning the Well, without informing him that the Well was closed for a long time, and asked the deceased to get into the Well and the deceased died inhaling the poisonous gas found inside the Well. He submitted that the main accused A1 was arrested and released on bail and investigation is also almost complete.

5. Considering the facts and circumstances of the case, and the fact that A1 engaged the deceased to clean the Well, and without knowing the fact that poisonous gas is emanating from the Well, the deceased get into the Well and died on the spot, further the main accused A1 was arrested and released on bail and the investigation is also almost completed, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions :

(a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-2, Poonamallee, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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 condition that:

(b) 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.

(c) The petitioner shall appear before the respondent 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.

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

-sd/-
01/04/2021

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-2,
POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MADHURAVOYAL POLICE STATION,
CHENNAI.

+1 CC to M/S.G.MOHAMMED ASEEF Advocate on payment of necessary charges SR NO. 4404

सत्यमेव जयते

CRL OP.4804/2021

Date :01/04/2021

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MN-15/04/2021