

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V.BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.5469 of 2021

G.SAMPATH

[PETITIONER / ACCUSED]

Vs

STATE REP.BY

[RESPONDENT]

THE SUB-INSPECTOR OF POLICE,
PERIYATHATCHUR POLICE STATION,
VILLUPURAM.
CR.NO.1321 OF 2020.

For Petitioner : M/S.M.KRISHNAMOORTHY Advocate

For Respondent : MR.S.KARTHIKEYAN Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Section 306 of I.P.C and altered to 384,306 of I.P.C r/w 3 and 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 in Crime No.1321 of 2020, on the file of the respondent Police, seek anticipatory bail.

2. Totally there are 2 accused in this case and the petitioner herein is A2. The allegation is that the deceased one Ayyappan had borrowed money from this petitioner on interest and failed to repay the amount. Hence, the petitioner/A2 along with A1 went to defacto complainant's house and demanded money with interest and criminally intimidated him. Unable to repay the money the deceased mixed pesticide with cool drinks and consumed and his daughter thought it as cool drinks she has also consumed the same, and both of them died on 21.11.2020. Based on the complainant given by the wife of the deceased, the case came to the registered.

3. The learned counsel for the petitioner would submit that the deceased had borrowed money from the petitioner and failed to re-pay the same and the petitioner only asked the deceased to repay the money. Even as per F.I.R the allegation is that the petitioner only demanded money and there is no abetement for committing suicide. He would further submit that the co accused/A1 had already been arrested and released on bail. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned additional public prosecutor vehemently opposed the anticipatory bail stating that the petitioner and A1 had lent money to the deceased and thereafter demanded money from the deceased and also criminally intimidated him, due to which he committed suicide and his daughter also died.

5. I have considered the rival submissions.

6. On a perusal of records it is seen that, the deceased borrowed money from the petitioner and A1, he did not repay the amount and the petitioner along with A1 went to the house of the deceased said to have intimidated the deceased demanding money. Unable to repay the money the deceased consumed pesticide mixed with cool drinks and his daughter also consumed the same innocently without knowing that it is mixed with poison and both of them died.

7. Considering the above facts and circumstances of the case and the fact that the petitioner said to have demanded the loan amount given to the deceased, and apart from that there is no serious allegation against the petitioner and now the co-accused/A1 had already been arrested and released on bail, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on anticipatory 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 Judicial Magistrate II, Tindivanam, on condition that the petitioner 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 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 shall report before the respondent Police as and when required for interrogation.

[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].

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

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

-sd/-

25/03/2021

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,
TINDIVANAM.
- 2.THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM DISTRICT.(FOR INFORMATION)
- 3.THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.
- 4.THE SUB-INSPECTOR OF POLICE,
PERIYATHATCHUR POLICE STATION,
VILLUPURAM.

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

सत्यमेव जयते

CRL OP.5469/2021

Date :25/03/2021

TK/19.04.2021

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