

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Saturday, the Seventeenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.7188 of 2021

1 CHANDIRAN

[PETITIONER / ACCUSED]

2 [*]RAHUL

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
PERNAMPET POLICE STATION,
VELLORE DISTRICT.
CR.NO.94/2021.

For Petitioner : M/S. S.VISWANATHAN Advocate

For Respondent : MR.T.SHUNMUGARAJESWARAN, Govt. Advocate (Crl. Side)
[IN CRL.OP.NO.7188 OF 2021]

For Respondent : MR.A.GOPINATH GOVERNMENT ADVOCATE (CRIMINAL SIDE)
[IN CRL.MP.NO.5949 OF 2021]

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

ORDER : The Court Made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 294 (b), 354, 506 (ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 @ 294 (b), 354, 506 (ii) IPC read with Section 4 (B) (1) of Tamil Nadu Prohibition of Harassment of Women Act, 2002 @ 294 (b), 354, 506 (ii), 302 IPC read with Section 4 (B) (1) of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.94 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners and other accused persons had parted money to the husband of the deceased / defacto complainant who was conducting Chit. Meanwhile, the husband of the deceased / defacto complainant passed away and that the due amounts were not paid the persons concerned. The deceased / defacto complainant was doing vegetable buying and selling business for which, she used a vehicle bearing Regn.No. TN 23 DZ 2567 for carrying the purchased vegetables from Vellore Market and used to sell it at the Pernampet Market and that she was unable to pay the due amounts to the concerned persons. While so, on 17.02.2021, the said vehicle was taken over by the petitioners and other accused persons and when the same was questioned by the deceased / defacto complainant on 19.02.2021, the 1st accused refused to return the same, following which, the deceased / defacto complainant poured kerosene through out her body and set fire by herself. Immediately, she was taken to hospital and given treatment and that the Law Enforcing Agency, initially registered the case for offence under Sections 294 (b), 354, 506 (ii) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. Thereafter, the case was altered to one under Sections 294 (b), 354, 506 (ii) IPC read with Section 4 (B) (1) of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and after 10 days, the deceased / defacto complainant succumbed to injuries and thereby, the case was once again altered to Sections 294 (b), 354, 506 (ii), 302 IPC read with Section 4 (B) (1) of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that the allegation against the petitioners is that the petitioners had taken the deceased / defacto complainant's vehicle without her consent and except that, there is no other allegation against the petitioners. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent / complainant would submit that the deceased / defacto complainant's husband was conducting Chit in which, the petitioners and other accused persons had parted money. Meanwhile, he passed away and that the deceased / defacto complainant who was doing vegetable business was not able to dispose the money due to the concerned persons. Thereby, the petitioners along with other accused had taken the vehicle of the deceased / defacto complainant which she had used to transport vegetables to Pernampet market, purchased from Vellore Market. Thereafter, when the deceased / defacto complainant had asked to return the vehicle, the accused refused the same and also abused her in filthy language due to which, the deceased / defacto complainant poured kerosene on her body and set her ablaze. Immediately she was taken to the hospital and given treatment and after 10 days, she succumbed to injuries. He would further submit that the investigation is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5.Considering the facts and circumstances of the case, 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 their arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Gudiyatham, on condition that each of the petitioners 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 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 Court concerned 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. for a period of two weeks and thereafter shall report before the respondent police on every Monday at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation;

(c)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners are 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 accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
17/04/2021

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.

[*]2nd Petitioner name is amended and Time is granted for a further period of two weeks from today to comply with the condition imposed by this Court in Crl.OP No.7188 of 2021. It is made clear that no further extension of time will be granted by this Court, as per order of this Court dated 02/06/2021 made in CRL.MP.NO.5949 OF 2021 IN CRL.OP.NO.7188 OF 2021

TO

1 THE JUDICIAL MAGISTRATE,
GUDIYATHAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE DISTRICT. (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
PERNAMPET POLICE STATION,
VELLORE DISTRICT.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, CHENNAI-104.

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

CRL OP.7188/2021

Date :17/04/2021

rg.05.05.2021

MK:18/06/2021