

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.10594 of 2021

Arjunan

...Petitioner

Versus

State represented by
The Inspector of Police,
B-5, Kitchipalayam Police Station,
Salem.

(Crime No.292 of 2021)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of apprehending arrest in the Crime No.292 of 2021 on the file of the respondent.

For Petitioner : Mr.D.Yashwanth Rajan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 379, 338, 304(2) and 286 IPC r/w 3(a) of Explosives Substances Act, 1908 in Cr.No.292 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the wife of deceased Suresh and she had given a complaint before the respondent Police, alleging that her husband was working under one Arjunan Panamarthupatty, Salem, who is running a quarry. Further alleged that when her husband gone to work in the above said quarry of the petitioner, had died due to the explosive blast at the time of working. The petitioner is running the quarry without obtaining proper permission from the Government and selling blue metals illegally. Due to negligence on the part of the petitioner, her husband had lost his life.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and further that he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. The deceased had died due to electrocution. The petitioner is running the said quarry with proper permission from the Government and the allegations set out against him is not true. However, the learned counsel on instructions from the petitioner, submits that the petitioner is ready and willing to pay compensation for a

sum of Rs.3,00,000/- to the minor children of the deceased persons. The learned counsel further submitted that he has not committed any offence and hence he need not be arrayed as accused in this case and prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that there is no previous case pending against the petitioner and the investigation is pending.

5. Considering the facts of the case and based on the undertaking given by the petitioner to deposit an amount, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before **the learned Judicial Magistrate No.2, Salem**, 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 and on further condition that:

(a)if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioner shall make a fixed deposit of a total of **Rs.3,00,000/- (Rupees Three Lakhs only) in the name of the two minor children of the deceased (Rs.1,50,000/- each), within a period of two weeks from today**, without prejudice to his defence before the trial Court and produce proof of payment and the learned Judicial Magistrate, after perusing the challan/ receipt, shall accept the sureties furnished by the petitioner;

(c)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;

(d)the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(e)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioner shall not abscond either during investigation or trial;

(g)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]***; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

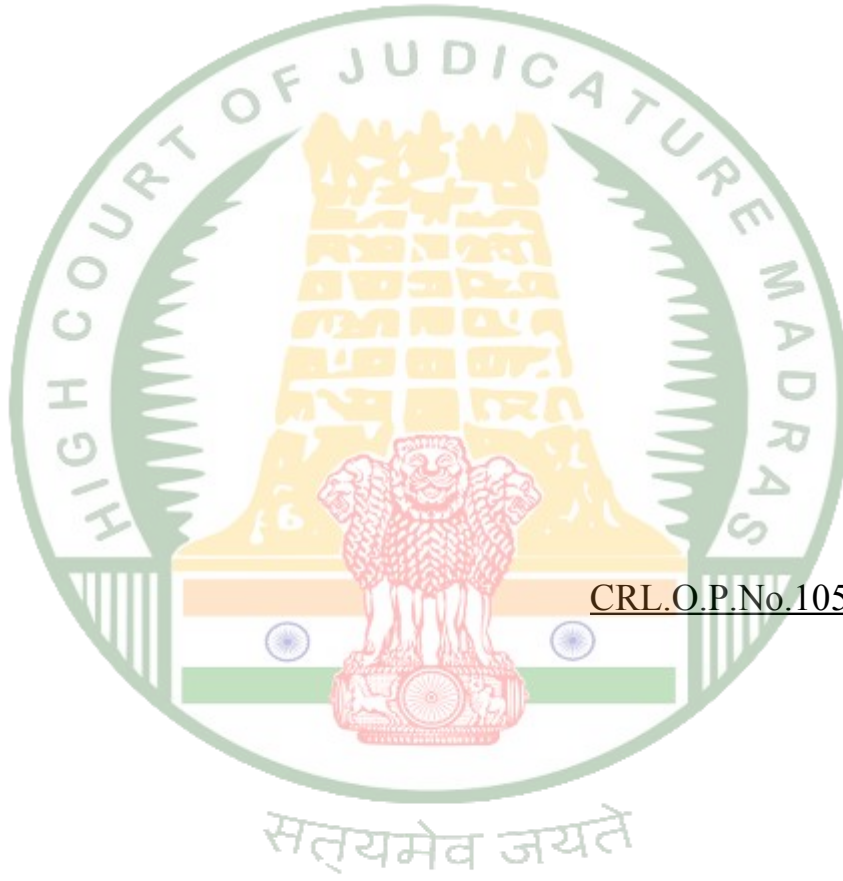
22.06.2021

Speaking/Non Speaking order
Index : Yes/No
Internet: Yes/No
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To

- 1.The Inspector of Police, सत्यमेव जयते
B-5, Kitchipalayam Police Station,
Salem.
- 2.The Judicial Magistrate No.II,
Salem.
3. The Public Prosecutor,
High Court, Madras.

M.DHANDAPANI,J.
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The matter is listed today under the caption 'for being mentioned' at the instance of the learned counsel appearing for the petitioner.

2.The learned counsel appearing for the petitioner would submit that A1 is running the quarry with proper permission from the Government and further submitted that there is no allegation made against the petitioner. However, in paragraph no.3 of the order dated 22.06.2021 made in Crl.O.P.No.10594 of 2021, it is stated that the petitioner is running the said quarry and that the allegations set out against the petitioner is not true. Accordingly, he prayed for appropriate orders.

3.In view of the above, the relevant portion of paragraph no.3 of the order dated 22.06.2021 made in Crl.O.P.No.10594 of 2021 is to be read as follows:

***"3.....A1 is running
the said quarry with proper permission***

from

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***the Government and no allegation is made
against the petitioner....."***

instead of

***"3.....The petitioner
is running the said quarry with proper
permission from the Government and the
allegations set out against him is not
true....."***

4.Registry is directed to carry out the necessary
corrections and re-issue copy of the order to the respective learned
counsel appearing for the parties.

30.06.2021

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