



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.L. O.P. No.25857 of 2021

Aaron

... Petitioner

Versus

State Rep by
The Inspector of Police,
Pennalurpet Police Station,
Tiruvallur District.
(Crime No.336 of 2021)

... Respondent

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973 seeking to enlarge the petitioner on anticipatory bail in the event of his arrest in connection with the case in Crime No.336 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Elumalai

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

ORDER

The petitioner who apprehends arrest at the hands of the respondent-Police for the offences punishable under Sections 406, 420, 294 (b) and 506 (i) I.P.C, in Crime No.336 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was employed in Police Department and retired from service. One of the brothers of the petitioner, by name, D.Besh was employed in CRPF, Avadi in the year 1984. On 26.06.2004, due to matrimonial dispute, Parimala, W/o D.Besh, consumed poison and died. From the date of death of his wife, the petitioner's brother Besh fell sick and within two months thereof, his brother Besh also died leaving behind his two minor children namely, (i) Minor Victor Manoah, aged 15 years (complainant herein) and (ii) Minor Milton Ashirvadam, aged 5 years. After the death of the petitioner's brother Besh, the petitioner was appointed as a guardian by the officials of the CRPF and the pension amount of the deceased Besh was credited in State Bank of India. For the purpose of withdrawal of the pension and other terminal benefits, a joint account was opened in the State Bank of India in the name of the petitioner and the complainant Victor Manohar (then minor).
<https://hcservices.ecourts.gov.in/hcservices/>
Hereafter, both the minor children were nurtured and cared by

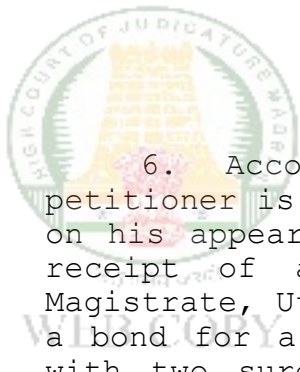


Mr. Shanmugam, relative of deceased Parimala, Wife of Besh. Therefore, the petitioner periodically withdrew cash from the State Bank Account, month after month, and entrusted it to Mr. Shanmugam. After attaining majority, the complainant insisted the petitioner to handover the ATM Card and chosen to withdraw whatever amount he intends. The petitioner also came to know that both the minors, after attaining majority, have led a wayward life and have been addicted to alcoholic drinks. The petitioner along with the caretaker Shanmugam and other relatives, have often questioned the behavior of the complainant and his brother. Ultimately, the petitioner was relieved from his guardianship and all the bank accounts and the other financial transactions were independently entrusted to the complainant herein. While so, one of the amounts deposited in the name of the minor in the Court deposit, was sought to be withdrawn by the complainant. The petitioner refused to do so, apprehending that the complainant and his brother may spend the amount for unsavoury acts without retaining the amount for their marriage. Therefore, the petitioner refused to sign the petition for withdrawal of the account which is lying in the Court deposit. Irked by such refusal, the complainant has given the present complaint as if the petitioner had misappropriated the amount.

3. The learned counsel further submits that the petitioner is now aged about 72 years and he discharged his duty diligently as a guardian and he claims that a sum of Rs.3,42,881/- still is intact in the Court deposit. He has also enclosed a document to that effect. The learned counsel for the petitioner further submits that the amounts have been spent properly and however, the de-facto complainant and his brother are addicted to alcohol and spending the amount lavishly. Since the petitioner refused to sign for withdrawing the amount, this complaint has been foisted. The petitioner has also produced documents in support of his claim that a sum of Rs.3,42,881/- is still in the bank.

4. The learned Additional Public Prosecutor submits that the petitioner is the paternal uncle of the de-facto complainant and has taken advantage that the de-facto complainant and his brother often have misused the amount and have spent the money without the knowledge of the de-facto complainant. According to him, the investigation is in initial stage and they are also not in a position to collect the entire materials as against the petitioner. The petitioner is the paternal uncle of the de-facto complainant. The de-facto complainant's father, who was working in CRPF Avadi, died in the year 2004. At that time, the de-facto complainant was 15 years. The retirement benefits of the deceased father of the de-facto complainant, was deposited in Court deposit, pursuant to the order of the Court and the petitioner was appointed as guardian of the minors.

5. Considering the facts and circumstances of the case and also the documents produced by the petitioner in support of his claim that a sum of Rs.3,42,881/- still is lying in the bank, this Court is inclined to grant anticipatory bail to the petitioner.



6. Accordingly, the Criminal Original Petition is allowed. 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, Uthukottai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioner shall report before respondent police daily at 10.30 a.m. until further orders.

[c]the petitioner shall not tamper with the 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 is 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 229-A IPC.

-sd/-

29/12/2021

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,
UTHUKOTTAI, THIRUVALLUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]



3 THE INSPECTOR OF POLICE
PENNALURPET POLICE STATION,
TIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.25857/2021

Date :29/12/2021

CSK 04/01/2022