



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/07/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)Nos.8489 & 9451 of 2021

Rani ..Petitioner/Accused No.1 in Crl.OP.(MD)No.8489 of 2021

George ..Petitioner/Accused No.2 in Crl.OP.(MD)No.9451 of 2021

Vs

The Inspector of Police,
Nachiyarpuram Police Station,
Sivagangai District.
Cr.No.64/2021.

.. Respondent/Complainant in both Crl.OPs.

M.Kalavathi ... Intervener/Petitioner/Sister of the Deceased
in CRL MP(MD).4439/2021 in CRL OP(MD).8489/2021

For Petitioner : Mr.D.Rameshkumar.
(in both Crl.OPs.)

For Respondent : Mr.M.Muthumanikkam,
(in both Crl.OPs.) Government Advocate (Crl.Side)

For Intervenor : Mr.K.P.Krishnadoss

PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

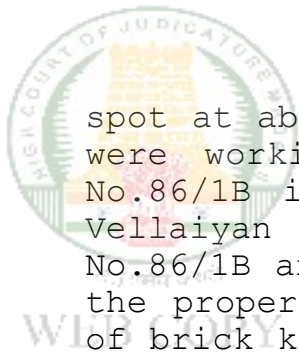
COMMON PRAYER :-

For Anticipatory bail in Crime No.64 of 2021 on the file of the Respondent police.

COMMON ORDER : The Court made the following common order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 304(ii) IPC in Crime No.64 of 2021, seek anticipatory bail.

2.The case of the prosecution is that VAO of the Keelaiur group gave this complaint alleging that he received an information that
<https://www.mca2018.in/> dead in a brick kiln on 23.06.2021. He visited the



spot at about 07.56 pm., and gathered that Nagendran and Manikandan were working in brick kiln. The brick kiln situated in survey No.86/1B in the name of one Rani. Survey No.86/5 belongs to one Vellaiyan Nadar, which is situated on the south of the survey No.86/1B and now his son Singaram is in possession and enjoyment of the property. Sand was removed from survey No.86/5 for the purpose of brick kiln. The pit dug by the accused was not closed. Nagendran and Manikandan, who had gone there for taking fire woods, found themselves amidst land slide. As a result, Nagendran died of suffocation. Therefore, this case was registered against the accused for not closing the pit from where sand was removed for brick kiln.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. It is a case of accident. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned counsel for the intervenor, who is the sister of the deceased, strongly opposed this petition on the ground that she was not informed by the authorities with regard to the death of her brother. She was also not allowed to file complaint. One Daniel, who is taking care of the day to day affairs of the brick kiln, is not shown as an accused in this case. He further submitted that the intervenor has given complaint to the higher officials, however, no action was not taken. Therefore, he seeks dismissal of this petition.

5.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is not completed and brick kiln was run without proper permission from the concerned authorities. He also submitted copy of the postmortem certificate of the deceased.

6.As narrated above, the case of the prosecution is that the deceased died in the land slide in a pit, which was used for taking sand for brick kiln. The allegation against the petitioners is that they have not taken proper precaution measures for taking sand for brick kiln.

7.Perusal of postmortem certificate shows that the victim died due to mechanical asphyxia may be due to land slide lead on to cardiorespiratory arrest and above injuries may be due to exhumation of body by JCB. *Prima facie* it appears that the deceased died of mechanical asphyxia due to land slide. There is no material as of now available to show that the petitioners had intention to cause the death of the deceased. If involvement of any other persons come to light, during the course of investigation, certainly, the respondent police will proceed against them. As it *prima facie* appears that it is a case of accident, custodial interrogation of the petitioners is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioners.



8. Accordingly, the petitioners are ordered to be released on bail in the event of 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 Court, Thiruppathur, Sivagangai District on condition that the petitioners 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 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before respondent police daily at 10.30 am., until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
19/07/2021

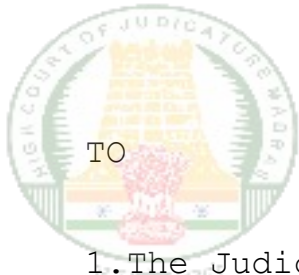
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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



TO

1.The Judicial Magistrate Court,
Thiruppathur, Sivagangai District

2.Do through
The Chief Judicial Magistrate, Sivagangai District.

3.The Inspector of Police,
Nachiyarpuram Police Station,
Sivagangai District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.VIMALRAJ, Advocate (SR-4764)

ORDER IN
CRL OP(MD)Nos.8489 & 9451 of 2021
Date : 19/07/2021

TR/JC/SAR-III (22.07.2021) 4P 6C