



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Fourteenth day of September Two Thousand and Twenty One
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

Crl.O.P. (MD) No.13090 of 2021

S.Krishnavelu

... Petitioner/ACCUSED NO.3

Vs.

State through
The Inspector of Police,
CBCID Ramanathapuram,
Ramanathapuram.
Crime No.01 of 2018

... Respondent/COMPLAINANT

For Petitioner : Mr.T.LAJAPATHI ROY, Advocate

For Respondent : Mr.R.M.ANBUNITHI,
Additional Public Prosecutor (Crl.Side)

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

PRAYER:

For anticipatory bail in crime no. 01 of 2018 on the file of the respondent police.

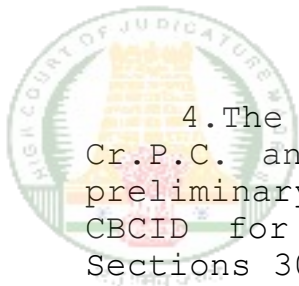
ORDER : The Court Made the following order :-

ORDER

This petition is filed seeking to enlarge the petitioner on anticipatory bail in the event of his arrest or surrender in Crime No.01 of 2018 on the file of the respondent police.

2.The case of the prosecution is in short.

3.On 03.10.2012, the team of police officials attached to the Paramakudi Town Police Station tried to nab Venkatesan, who was connected in Crime No.93 of 2010 on the file of the Paramakudi Police Station. At that time, the aforesaid Venkatesan tried to escape, fell down, sustained injuries and attempted to stab the Sub Inspector of Police and other Constables with knife. He was secured and brought to the Emaneswaram Police Station, wherein, it is alleged that this petitioner along with other police people assaulted the said Venkatesan, as a result of which, he sustained injuries. He was admitted in the hospital at about 01.15 am., and later, died.



4.The case has been registered under Section 176 (1-A) of Cr.P.C. and the learned Magistrate conducted inquest and filed a preliminary report also. Subsequently, the case was transferred to CBCID for investigation and later, the offence was altered to Sections 300, 348, 304 (ii), 34 and 302 of IPC.

5.Now the case of the petitioner is that he was noway connected with the aforesaid occurrence. Since he was working in the aforesaid station during the relevant period, he has been falsely implicated in this case. Hence, this petition is filed seeking anticipatory bail.

6.Heard both sides.

7.Since it is a custodial death, the entire CD file was called for and perused. Perusal of CD file shows that specific allegation has been made against this petitioner also as he has been joining hands with the other accused persons in making the assault.

8.The learned counsel appearing for the petitioner at the time of argument would submit that this petitioner has been implicated in this case only based upon the alleged confession statement given by the 1st accused, namely, Muniasamy, but no signature is available in the alleged confession statement. Except this, no other material is available against this petitioner to connect him with the aforesaid crime.

9.Earlier, this petitioner moved Crl.O.P.(MD) No.14174 of 2020 along with other accused persons seeking anticipatory bail. During the course of order, this Court found that the injured suffered 50 external injuries and on the earlier occasion, this petitioner approached this Court for anticipatory bail. It was dismissed observing that Section 302 of IPC is clearly made out. On that ground, alteration report was also filed. That petition came to be dismissed as withdrawn.

10.Similarly, another petition has been moved by the aforesaid Muniasamy seeking regular bail. That was also dismissed. Again, this petitioner moved Crl.O.P.(MD) No.6837 of 2021 seeking anticipatory bail. That was also dismissed as withdrawn on 19.05.2021. Similarly, the 4th accused, namely, Kothandaraman also moved anticipatory bail application before this Court in Crl.O.P.(MD) No.7375 of 2021. It also came to be dismissed. Now, for the 3rd time, this petition has been moved.

11.The change of circumstance that has been stated by the learned counsel for the petitioner is that the petitioner is ready to cooperate with the Investigation Officer and no custodial interrogation is required. All the persons, who were on duty during the relevant time in the occurrence police station, have been roped



12.Perusal of CD file shows that *prima facie* materials are available to proceed against this petitioner also. It has been specifically stated that this petitioner by joining hands with the other accused persons severely assaulted the deceased. Since it is a case of custodial murder, unless and until the petitioner is able to bring on record the materials or circumstances, which are compelling in nature to exercise the discretionary relief of anticipatory bail, he cannot get the relief. Moreover, the nature of the offence disentitles the petitioner to claim the discretionary relief.

13.It is unfortunate that even after a lapse of several years, still the investigation is pending. The crime is of the year 2018. Even after a lapse of 3 years, investigation has not been concluded so far for one or other reason. By order dated 07.07.2021, the respondent police was directed to complete the investigation within a period of 2 months from the date of receipt of a copy of the order. Now the 2 months period is also over. So, in the facts and circumstances of the case, this Court is not inclined to exercise the discretionary power in favour of the petitioner, which he does not deserve.

14.This petition is dismissed accordingly.

sd/-

14/09/2021

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

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.

TO

1 THE INSPECTOR OF POLICE
CBCID RAMANATHAPURAM, RAMANATHAPURAM.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.T.LAJAPATHI ROY, Advocate SR.No.6240

ORDER

IN

CRL OP(MD) No.13090 of 2021

Date :14/09/2021