



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

Date : 13/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.13152 of 2021

1.Sivavelan
2.Sivamalai
3.Roopa

... Petitioners/Accused Nos.1 to 3

Vs

The State Rep. by
The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
Crime No.66 of 2021

...Respondent/Complainant

For Petitioners : Mr.A.Joel Paul Antony, Advocate.
For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No.66 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 304(ii) I.P.C, in Crime No.66 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on receiving the information, the defacto complainant who is a Village Administrative Officer visited the house of one Muthaiah in Tiruvalluvar Colony, Thoothukudi District. He saw the petitioners along with one Nirmal Ganapathy, Lakshmana Perumal were found lying in a hole 50 feet in depth on the backside of the house of Muthaiah. The petitioners herein who were lying unconscious in the said hole were rescued. But the said Nirmal Ganapathy and Lakshmana Perumal were found dead. The petitioners gave a false hope to the deceased that gold treasure is available and hence, they dug 50 feet hole without taking any precautionary measure resulting to the death of two persons. Hence,



3.The learned counsel for the petitioners submits that the petitioners are innocents and they have not committed any offence as alleged by the prosecution.

4.The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that the investigation is yet to be completed.

5.Though this Court by an order dated 07.07.2021 in CRL.OP(MD). No.8058 of 2021 dismissed the anticipatory bail application as against the petitioners, the respondent police have not taken any steps to arrest the petitioners so far. Now, the petitioners have come forward with this application for grant of anticipatory bail.

6.Considering the facts and circumstances of the case, the nature of allegation levelled against the petitioners and the fact that the respondent police have not proceeded with the investigation, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Sathankulam, 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 learned Magistrate concerned and on further conditions that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioners shall appear before the respondent police daily at 10.30 a.m for enquiry until further orders enabling them to complete the investigation;

(c)the petitioners shall not tamper with the 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**



(f)if the accused/ petitioner thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
13/09/2021

/ TRUE COPY /

WEB COPY

/ /2021

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 JUDICIAL MAGISTRATE, SATHANKULAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
NAZARETH POLICE STATION, THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.VINAYAK, Advocate (SR-6176[I] dated 13/09/2021)

ORDER
IN
CRL OP(MD) No.13152 of 2021
Date :13/09/2021

MSA
MS/PN/SAR-2/29.09.2021/3P.6C