



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Eighth day of December Two Thousand and Twenty One

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) No.14972 of 2021

PRABHAKARAN

... PETITIONER / ACCUSED

Vs

STATE REP BY
THE INSPECTOR OF POLICE
NAGAMALAI PUDUKOTTAI POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 395 OF 2021.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.SENTHILKUMAR.R, Advocate

For Respondent : MR.R.MEENAKSHI SUNDARAM,
Additional Public Prosecutor

For Intervenor : Mr.R.SHANKAR GANESH, Advocate

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

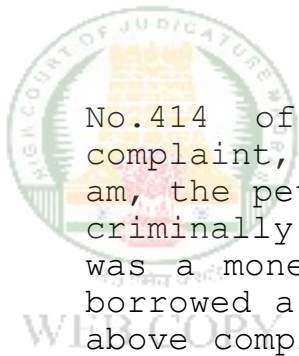
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under sections 294(b), 324 and 506(ii) IPC altered to 294(b) and 302 IPC in Crime No.395 of 2021, seeks anticipatory bail.

2.The petitioner is facing the charges for the offences punishable under sections 294(b) and 302 IPC.

3.Heard the learned counsel appearing for the petitioner and the Additional Public Prosecutor submitted appearing for the State as well as the learned counsel appearing for the Intervenor/de-facto complainant.

4.The entire CD file is sought for and perused. When the money transaction dispute arose between the deceased and this petitioner, on the basis of the complaint given by the deceased namely John



No.414 of 2021. The complaint was dated 23.09.2021. In the complaint, the deceased has stated that on 23.09.2021 at about 1.45 am, the petitioner alleged to have abused him in filthy language and criminally intimidated. From the complaint, it is seen that there was a money transaction between them, in which the petitioner has borrowed a sum of Rs.70,000/- from the deceased. So based upon the above complaint, the above said CSR was registered, on 23.09.2021. On the same day itself, there was compromise between them, by which this petitioner agreed to repay Rs.20,000/- on or before 02.10.2021. So on the basis of the above said undertaking given by this petitioner, the deceased has withdrawn the complaint on the very same date. The withdrawal statement has also been signed by some of the witnesses. This petitioner has also given an undertaking to the effect that he will repay Rs.20,000/- on or before 02.10.2021. On that basis, the above said CSR was closed on the very same date itself.

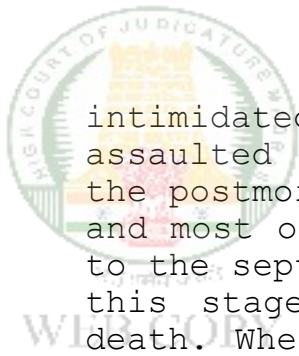
5.On 28.09.2021, the mother of the deceased namely Jeyameri has given a complaint stating that because of the money dispute between the deceased and the petitioner, on 23.09.2021 at about 1.45 am, this petitioner alleged to have assaulted the deceased by wooden log on the left hand and also pushed down and strangulated the deceased. She along with others intervened and separated both of them. At the time of leaving the place, this petitioner alleged to have made a criminal intimidation. Later, the above said matter was entered into compromise.

6.But however, later the deceased developed pain in hand. So he was admitted in Sri Raajan Hospital, Madurai, on 26.09.2021 and later, shifted to Government Rajaji Hospital, Madurai, on 27.09.2021. So on the basis of the above said complaint, the case in Crime No.395 of 2021 under sections 294(b), 323, 324 and 506(i) IPC was registered.

7.After the above said registration of the FIR, this petitioner moved anticipatory bail before this court by filing this petition and during the course of which, interim anticipatory bail was granted by this court, by order, dated 06.10.2021. When the matter was pending thus, the deceased reported to be dead in the hospital on 29.09.2021 at 7.20 am. Later, the FIR has been altered and investigation is underwent and postmortem was conducted and the chemical examination report is awaited.

8.Now the learned counsel appearing for the petitioner would submit that absolutely, there was no intention on the part of the petitioner to assault and kill the deceased. Even in the earlier complaint, the deceased has not stated anything about the alleged assault, on 23.09.2021.

9.But as mentioned above, he simply stated that when the money was demanded from this petitioner alleged to have criminally



intimidated. Not even a single word, he has stated that he was assaulted by the petitioner, on 23.09.2021 at about 1.45 pm. But the postmortem report reveals that 8 injuries were found on the body and most of the injuries were found healed and death was caused due to the septic shock. So it may not be appropriate for this court at this stage to make any observation with regard to the cause of death. Whether any intention on the part of the petitioner to make such attack on the deceased with the intention to kill him, is a matter for trial.

10. But one glaring fact, which is noticed by this court is that in the complaint, the de-facto complainant has stated that because of the matrimonial dispute between the deceased and her wife, the deceased was living with her and he sustained injuries in a road accident one month prior to the date of the complaint, for which also, he was regularly taking treatment by visiting the hospital.

11. So when reading this averments in the complaint coupled with the healed wounds, which were present on the body of the deceased at the time of postmortem, creates a genuine doubt whether the death has been caused only due to the assault made by the petitioner, on 23.09.2021. More-over, it is also stated that this petitioner assaulted the deceased on the left hand and he was also assaulted all over the body with hands. So whether these injuries are sufficient in the ordinary course of nature to cause death is also a matter for investigation and trial.

12. So considering the totality of the circumstances, even though, a strong objection has been made by the Intervenor to the effect that because of the assault that has been made by this petitioner, the death was caused within a short time after admission in the hospital.

13. From the facts narrated above, I am of considered view that since most part of the investigation is also over and only the chemical examination report is awaited, no custodial interrogation is required. No such request has also been made by the prosecution that custodial interrogation is required in this matter. So I am of the considered view the interim anticipatory bail that was granted to the petitioner can be made absolute for the offence now altered.

14. Accordingly, the petitioner is ordered to be released on **anticipatory 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 Judicial Magistrate, No.VI, Madurai, 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] 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 Aadhar card or Bank pass Book to ensure their identity.

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[b] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders and must cooperate with the Investigating Officer to complete the investigation process.

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

sd/-
08/12/2021

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/ /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, NO.IV
MADURAI.

2 DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

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



3 THE INSPECTOR OF POLICE
NAGAMALAI PUDUKOTTAI POLICE STATION,
MADURAI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.14972 of 2021

Date :08/12/2021

TR/JC/SAR-IV(16.12.2021) 5P 5C