



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

Date : 28/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) . No.16573 of 2021

WEB COPY

Kodiswaran,

... Petitioner/Accused
(Rank Not Known)

Vs

State represented by
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District
(Crime No. 384 of 2021).

... Respondent/Complainant

For Petitioner : Mr.Ramakrishanan K.K.,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

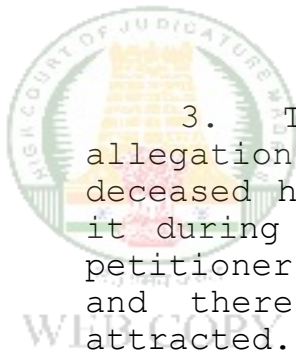
PRAYER :-

For Anticipatory Bail in Crime No. 384 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 286, 304(ii) IPC and Section 9(B)(1)(a) of the Indian Explosives Act, 1884, in Crime No.384 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The Village Administrative Officer of Sivakasi lodged a complaint stating that on 20.09.2021 at about 2.15 p.m., he received information regarding a fire accident in the National Caps Works and immediately, he rushed to the spot, where, he found a 60-year-old man lying dead in front of Room No.56. The deceased person had sustained burn injuries all over his body. On enquiry, it revealed that the deceased had been working in that Factory for the past four years and the petitioner instructed the deceased to carry the chemicals and roll cap from Room No.56 to Room Nos.29, 30 and 31. While carrying a heavy load of explosive items, he fell down, which resulted in his death. Hence, the case.



3. The learned counsel for the petitioner submits that the allegations levelled against the petitioner are false. Though the deceased had been provided with safety equipments, he had not used it during the course of employment. He further submits that the petitioner had not insisted the deceased to carry enormous roll cap and therefore, the offence under Section 304(ii) IPC is not attracted. After the accident, the family of the deceased had been provided with a sum of Rs.5,00,000/- as compensation in addition to the funeral expenses of Rs.50,000/-.Hence, he prayed for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) strongly opposed for grant of anticipatory bail stating that the petitioner has not provided any safety equipments to the deceased. Therefore, the accident had occurred.

5. A reading of the FIR would disclose that it is only an accident, that had happened, when the deceased unexpectedly fell down while carrying the heavy load of roll caps.

6. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioner and also the fact that it is an accident, that had happened, when the deceased unexpectedly fell down while carrying the heavy load of roll caps, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this 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 No.I, Sivakasi, 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]**; and



[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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sd/-
28/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

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.I,
SIVAKASI.
- 2.DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3.THE INSPECTOR OF POLICE,
SIVAKASI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.K.K.RAMAKRISHNAN, Advocate (SR-7761[I] dated
01/11/2021)

ORDER IN
CRL OP(MD) No.16573 of 2021
Date :28/10/2021

SB/VR/SAR-I/09.11.2021/3P/6C