



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 09.12.2021

Pronounced on :13.12.2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.18813 of 2021

Muthu rajan : Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
Kovilpatti East,Thoothukudi.
(Crime No.1054 of 2021)

:Respondent/Complainant

For Petitioner : Mr.K.Muthu Ganesa Pandian
Advocate.

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor

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

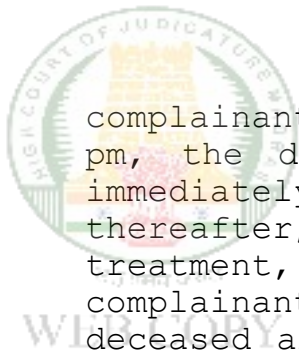
PRAYER :-

For Anticipatory Bail in Crime No.1054 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 306 IPC, in Crime No.1054 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the deceased Kamatchi Rajan, husband of the defacto complainant was working in the fruit stall owned by his father Rajagopalan, that the deceased was in severe mental agony for more than one week prior to the occurrence, that on enquiry, he informed to the defacto complainant that his father was planning to sell the entire shop, that on 29.10.2021 at 12.30 PM, he came to the residence and informed the defacto



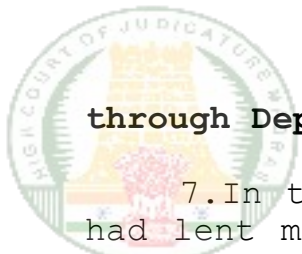
complainant that he was going to take rest and that at about 05.00 pm, the deceased had informed that he consumed rat poison, and immediately he was taken to Kovilpatti Government Hospital and thereafter, to the Government Hospital, Tuticorin and that despite treatment, he died at about 02.20 pm on 01.11.2021. The defacto complainant has found out a letter in the shirt pocket of the deceased and wherein, he has stated that due to the pressure given by the petitioner for selling the fruit shop, his father had decided to sell the fruit shop and that only at the instigation of the petitioner, he had consumed poison. Hence, the complaint.

3.The case of the petitioner is that the deceased is brother-in-law of the petitioner and is running a offset printer as Muthuraj Printers for the past 25 years and is having reputation in business and social life, that due to the poor involvement of the deceased in the business, the business of his father-in-law met with heavy debts and that is why father-in-law had planned to wind up the business and decided to settle the debts, that thereafter, the petitioner was directed to find out the appropriate buyer, that the petitioner was only helping for the sale of fruit shop and the same was not liked by the deceased as well as by the defacto complainant and that therefore, a false complaint has been lodged against him.

4.The learned counsel for the petitioner would submit that the deceased was admitted in hospital on 29.10.2021 at about 06.15 pm with good conscious, he was declared dead at about 02.20 am on 01.11.2021, that the respondent Police has not taken any action for recording the dying declaration, that there existed disputes between the petitioner's family and the deceased family with respect to the partition of properties belonging to the father-in-law of the petitioner and that in order to wreck vengeance over the property issue the above complaint came to be lodged.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner's earlier petition for anticipatory bail was ordered to be dismissed as the same was withdrawn by the petitioner himself, that the deceased has named the petitioner in the suicide note alleged to have been written by him, that the respondent had also seized some audio clippings to show the alleged involvement of the petitioner in the occurrence, that the investigation is in initial stage, that the custodial interrogation of the petitioner is very much required and that therefore, they are having serious objections to release the petitioner on bail.

6.The learned counsel for the petitioner has relied on the judgment of Gujarat High Court in **Prabhatsinh Popatsingh vaghela (Tinabhai) vs. State of Gujarat** passed in **Criminal Misc. Application No.16097 of 2020**, dated 09.12.2020 and also the judgments of Hon'ble Supreme Court in **Vajinath Kondiba Khandke Vs. State of Maharashtra and another** reported in **2018 7 SCC 781**; and **M.Mohan Vs. State**



through Deputy Superintendent of Police reported in **2011(3) SCC 626**.

7.In the first decision cited above, that though the petitioner had lent money to the deceased, there was no allegations about any atrocious act by the applicant demanding money from the deceased. Gujarat High has granted anticipatory bail to the applicant for the offence alleged to have been committed under Sections 306, 384 and 114 of IPC. No doubt, in the said decision, the High Court has relied on the judgment of the Hon'ble Supreme Court in **M.Mohan's** case third cited, by holding that there is no specific allegation against the applicant regarding any demand of money from the deceased, has granted anticipatory bail.

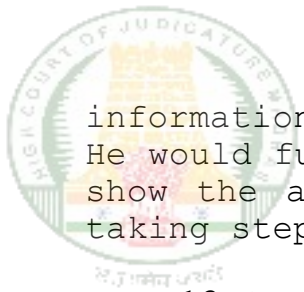
8.In the 2nd decision, the Hon'ble Supreme Court by setting aside the judgment of the High Court, has quashed the criminal case lodged in pursuance of FIR registered. In that case, the wife of the deceased has preferred a complaint that her husband was suffering from mental torture as his higher officers were getting heavy work from him, that his higher officer had also stopped the salary for one month and threatening him that his increment would also be stopped and on considering the above, the Hon'ble Supreme Court by holding that the exigencies of work and the situation may call for certain action on part of a superior including stopping of salary of a junior officer and that action simplicitor cannot be considered to be a pointer against such superior officer, quashed the FIR.

9.In the third decision, the accused were charged for the alleged offence under Sections 498(A), 304 B and 306 IPC. The High Court has quashed the charge sheet with respect to the charges under Section 498(A) and 304 IPC and directed the accused to face the trial for the offence under Section 306 IPC. When the same was challenged before the Hon'ble Supreme Court, after referring to the Section 107 of Cr.P.C and its earlier judgments on that subject, has quashed the proceedings under Section 306 IPC.

10.As rightly contended by the learned Additional Public Prosecutor, in the present case, we are only concerned as to whether the petitioner is entitled to get anticipatory bail or not ? and for deciding the same, it has to be seen as to whether the prosecution has shown *prima facie* case for proceeding against the petitioner further.

11.In the case on hand, the defacto complainant has produced the suicide note alleged to have been written by the deceased along with her complaint to the respondent police and on that basis only, FIR came to be registered against the petitioner.

12.The learned Additional Public Prosecutor would further submit that the deceased had also forwarded the alleged suicide note to his friends and fruit vendors and that they have been collecting



information about the receivers of said messages from the deceased. He would further submit that they have recovered a audio clipping to show the alleged involvement of the petitioner and they have been taking steps to find out the genuineness of the same.

13. Considering the seriousness and gravity of the offence alleged and also the fact that the investigation is initial stage as stated by the learned Additional Public prosecutor, this Court is not inclined to grant anticipatory bail to the petitioner at this point of time.

14. In the result, the Criminal original petition is dismissed.

sd/-
13/12/2021

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

das

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,
Kovilpatti East, Thoothukudi.

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

+1 CC to M/s.K.MUTHU GANESA PANDIAN, Advocate (SR-9200[I] dated 14/12/2021)

order made in
CRL OP(MD) No.18813 of 2021
Date : 13.12.2021

TR/JM/SAR-IV(16.12.2021) 4P 4C