



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/12/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.19008 of 2021

1. M.S.Noor Mohamed
2. Sundararaj

... Petitioners/Accused
1 & 2

Vs

State rep.by
The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
(Crime No.346 of 2021).

... Respondent/Complainant

For Petitioners: M/s.A.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates,

For Respondent : M/s.S.S.Madhavan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.346 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 287, 304(2) IPC in Crime No.346 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 02.11.2021, while cleaning the factory premises, a salt lump had slipped and had fallen on the deceased Kandhasamy from the cylinder, due to which, he suffered injuries and despite treatment, he succumbed to injuries. Hence, the complaint. Though, the FIR came to be



registered for the offence under Sections 287, 337 IPC, subsequently after the death of the said worker, it was altered to 287, 304(2) IPC.

3. The learned Senior counsel appearing for the petitioners would submit that the respondent police ought to have altered the case into Section 304(A) IPC and that without any materials, they have invoked Section 304(2) IPC. In the alteration report, the respondent police has reiterated the contentions raised in the first information report and that the petitioners were not present at the time of occurrence. He would further submit that the petitioners are not having any previous case at their credit. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the deceased was working under the petitioners, that the investigation is not yet completed and that the petitioners are not having any previous case at their credit.

5. Admittedly, the first petitioner is the Owner of the factory and the second petitioner is the Manager of the factory. Considering the nature of charges levelled against the petitioners and also the facts that the petitioners are not having any previous case for similar or serious offence, this Court is inclined to grant bail to the petitioners with certain conditions.

6. Accordingly, 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 Magistrate No.II, Sattur, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the respondent Police Station daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c) the petitioners shall not tamper with 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 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]**; and;

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

Sd/-
02/12/2021

/ TRUE COPY /

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

PNM

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

ORDER
IN
CRL OP(MD) No.19008 of 2021
Date : 02/12/2021

SP/VR/SAR III/13/12/2021/3P/5C

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