



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.1969 of 2022

1.Aruna
2.Arogyam
3.Innamma

... Petitioners

Versus

The Inspector of Police,
C-1, Uthukottai Police Station,
Uthukottai Taluk,
Thiruvallur District.
(Crime No.1431 of 2020)

... Respondent

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of arrest by the respondent police in Crime No.1431 of 2020 on the file of the respondent.

For Petitioners :Mr.Auxilla Peter

For Respondent :Mr.N.S.Suganthan,
Government Advocate (Crl. Side)

ORDER

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 304(2), 34 and 109 of IPC in Crime No.1431 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that on 04.09.2020 the defacto complainant's wife was brought to hospital along with their relatives. The defacto complainant informed to the first accused, that he had taken his wife to GH at Katchur for admission. But due to non availability of doctors he had brought her to Julia Hospital. The first accused informed that there is no doctor in their hospital as the regular doctor, the second petitioner was taking treatment for chest infection and advised them to take her to some other hospital. But as labour pain started, the defacto complainant and relatives beseeched the first accused, to admit her in the hospital. However, it was made very clear that if at all she should be admitted her delivery she can be assisted only without a doctor. Hence the case.



3. The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. She further submitted that on the date of the alleged occurrence the 1st petitioner was not well she took treatment in another hospital, the absence of the Doctor also intimated and the defacto complainant without adhering that his wife was admitted in hospital. Hence, they pray for grant of anticipatory bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that they are not deputed any Doctor incharge of the 1st petitioner, if any she was absent on that day. However, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Considering the facts and circumstances of the case, the 1st petitioner is the staff nurse, 2nd petitioner is the qualified Doctor and the 3rd petitioner is and Administrator, case for compensation also pending before consumer forum, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned First Judicial Magistrate, Thiruvallur, on condition that the petitioners 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners are directed to deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) totally [for 2nd petitioner Rs.50,000/-, 3rd petitioner Rs.1,00,000/-] to the credit of the Crime No.1431 of 2020 and the victim is permitted to withdraw the amount by giving the undertaking of the affidavit within a period of two weeks from the date of receipt of a copy of this order and shall produce the said receipt before the Court below.

[b] 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.

[c] the petitioners are directed to report before the respondent police as and when requires for interrogation;



[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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 anticipatory 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].

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

-sd/-

31/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE FIRST JUDICIAL MAGISTRATE,
THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DISTRICT [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
C-1, UTHUKOTTAI POLICE STATION,
UTHUKOTTAI TALUK, THIRUVALLUR DISTRICT - 662026.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+4CC to M/S. AUXILIA PETER Advocate on payment of necessary charges SR.No.1476

CRL OP.1969/2022

Date :31/01/2022

CSK 03/02/2022