



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION Nos.13191, 13196, 13280, 13285, 13288,
13292 and 13296 of 2022

NEPOLIAN

[PETITIONER / ACCUSED
IN CRL.OP.NO.13191/2022]

1 SUBASH CHANDRA BOSE
2 SURESH

[PETITIONERS / ACCUSED
IN CRL.OP.NO.13196/2022]

C.SANKARAN

[PETITIONER / ACCUSED
IN CRL.OP.NO.13280/2022]

MURUGANANDHAM

[PETITIONER / ACCUSED
IN CRL.OP.NO.13285/2022]

HARISHANKAR

[PETITIONER / ACCUSED
IN CRL.OP.NO.13288/2022]

R.PZAHANIVEL

[PETITIONER / ACCUSED
IN CRL.OP.NO.13292/2022]

SARAVANAN

[PETITIONER / ACCUSED
IN CRL.OP.NO.13296/2022]

Vs

THE STATE REP BY
INSPECTOR OF POLICE,
CBCID POLICE STATION,
THIRUVARUR DISTRICT.
CRIME NO.03 OF 2017.

[RESPONDENT
IN ALL THE PETITIONS]



For Petitioner : M/S.SWAMI SUBRAMANIAN Advocate
[CRL.OP.NOs.13191 & 13196/2022]

For Petitioner : M/S.N.MANOCHARAN, Advocate
[CRL.OP.NOs.13280, 13285, 13288, 13292 & 13296/2022]

For Respondent : M/S.A.DAMODARAN, Additional Public Prosecutor
[IN ALL THE PETITIONS]

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

ORDER : The Court Made the following order :-

The petitioner in Crl.O.P.No.13191 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176(1-A) Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.

2. The petitioners in Crl.O.P.No.13196 of 2022 who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 176(1-A) Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seek anticipatory bail.

3. The petitioner in Crl.O.P.No.13280 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176 Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.

4. The petitioner in Crl.O.P.No.13285 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176 Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.

5. The petitioner in Crl.O.P.No.13288 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176 Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.

6. The petitioner in Crl.O.P.No.13292 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176 Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.



7. The petitioner in CrI.O.P.No.13296 of 2022 who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 176 Cr.P.C @ Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC, in Crime No.03 of 2017, seeks anticipatory bail.

8. The case of the prosecution is that one Manikandan S/o. Tamilarasan was arrested on 12.03.2015 by the Police team including the petitioners headed by the Inspector of Police formerly of Perugavazhnan Police Station, Thiruvarur District. The said Manikandan involved in various theft cases in his jurisdiction. The team headed by A1 interrogated the said Manikandan and recovered a two wheeler bearing Reg.No.TN 50 V 4896- TVS JIVE. Thereafter, he was remanded to judicial custody on 16.03.2015 at Central Prison, Trichy. Due to illness, the remand prisoner, the said Manikandan was admitted in Mahatma Gandhi Memorial Government Hospital, Tiruchirappalli. He was undergone medical treatment and the treatment failed and as such he died on 19.03.2015. On the death of the said Manikandan, the case was registered by the Trichy City Government Hospital Police Station in Crime No.97 of 2015 under 176(1-A) Cr.P.C. During the course of investigation, the Additional Director General of Police, CBCID, Chennai by the communication, dated 24.03.2017 in pursuant to the GO (MS) 207 Public (L and O-A) Department, dated 13.03.2017 transferred the investigation in Crime No.97 of 2015 to the file of CBCID/Respondent. The respondent completed the investigation and filed a final report in the year 2022 against all the petitioners herein for the offences under Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC in which A4 died on 18.02.2018. The final report was taken on file in PRC.No.02 of 2022 on the file of the learned Chief Judicial Magistrate, Thiruvarur and it is pending for committal. The learned Chief Judicial Magistrate, Thiruvarur issued summons under Section 61 Cr.P.C dated 18.04.2022 to all the accused. On receipt of summons, the petitioners filed petition under Rule 24 of the Criminal Rules of Practice, 2019 to accept the sureties and commit them to the file of learned Principal Session Judge, Tiruvarur. The said application was returned as not maintainable. Therefore, the petitioners filed anticipatory bail petition before the learned Principal District and Sessions Judge, Tiruvarur and the same was dismissed by an order dated 27.05.2022.

9. The learned counsel for the petitioners submitted that the said Manikandan (herein after called as " the deceased") was taken to custody on 12.03.2015 and he was remanded to judicial custody on 16.03.2015 since the deceased involved in several cases and as directed he had been taken to various places to recover the stolen goods. Therefore, the deceased was not remanded to judicial custody within a period of 24 hours. He was duly remanded to judicial custody by the learned jurisdictional Magistrate and due to his illness he was admitted to the Government hospital, Trichy. The deceased suffered



with jaundice and died on 19.03.2015. Even as per the Police report, the petitioners were working in different Police Stations. While being so, 2 special teams were constituted by the Superintendent of Police, Tiruvarur to deduct some untraceable theft cases. One team headed by A1 along with A4, A8 and A9. Another team headed by the Deputy Superintendent of Police, Manarkudi along with A2, A3, A5, A6 and A7. The special team headed by first accused had arrested the deceased on 12.03.2015 and made recoveries in various crime numbers pending in different police stations. Thereafter, he was produced before the jurisdictional Magistrate Court on 16.03.2015. The petitioners neither interrogated the deceased nor made any recoveries by the special team. He further submitted that they were appeared on summons before the learned Chief Judicial Magistrate, Tiruvarur, since the entire investigation was completed and filed final report and it has to be committed to the Court of Sessions. Therefore, the custodial interrogation of the petitioners are not necessary. They are ready and willing to furnish sureties as contemplated under Rule 24 of Criminal rules of practice. Once the accused persons appeared through summons, the committal Court can very well accept the sureties under Section 88 Cr.P.C and commit the case along with the accused to the Court of Sessions for further proceedings. In support of his contentions, he had relied upon the judgments reported in 2002 (1) SCC 676 in the case of "Siddarth vs. State of Uttar Pradesh" and in CDJ 2010 MHC 3400 in the case of "N.K.K.P.Raja v. State rep. by Deputy Superintendent of Police".

10. A perusal of the status report and counter filed by the respondent revealed that the judicial enquiry was conducted by the learned Judicial Magistrate-IV, Trichy under Section 176(1-A) Cr.P.C. As per the report, the deceased died due to the reason of multiple injuries which may lead to cause of his death. The team of doctors conducted post mortem and opined that the deceased would appear to died due to complications of multiple injuries sustained. On receipt of the report, the Government passed in GO(Ms) No.207 public (L and O-A) Department, dated 13.03.2017 and the Memorandum of the Additional Director General of Police, CBCID, Chennai, dated 24.03.2017. The case was registered by the respondent in Crime No.03 of 2017 under Section 176(1-A) Cr.P.C. During the course of investigation, the accused detained the deceased under illegal custody from 13.03.2015 to 16.03.2015. They have brutally attacked and caused grievous injuries on the deceased on all over the body. After completion of investigation, the respondent filed final report on 21.02.2022, showing all the accused persons as absconded and absconding charge sheet was filed against the petitioners herein for the offences under Sections 147, 148, 167, 323, 343, 348 and 304(ii) of IPC before the Chief Judicial Magistrate Court, Tiruvarur and it is pending for committal in PRC No.02 of 2022. On 18.04.2022, the learned Chief Judicial Magistrate, Tiruvarur, issued summons to the accused. On receipt of the same, all the petitioners appeared and filed petition. Since it was not accepted by the learned Chief Judicial Magistrate,



Tiruvarur, the petitioners filed anticipatory bail petition before the Principal District and Sessions Court, Tiruvarur and the same was dismissed by an order dated 27.05.2022. Further it revealed that the deceased was interrogated by all the petitioners and they had brutally attacked and caused grievous injuries to the deceased. Even then, the respondent charged the petitioners only for the major offence under Section 304(ii) of IPC.

11. A perusal of the postmortem report found that the deceased sustained 36 injuries as follows,

"Ante mortem injuries:

I. Face:

- 1) Linear oblique dark brown abrasion on middle of face.
- 2) Linear bruise on mid forehead.
- 3) Dark brown Abrasion 1*0.2 cm on back of pinna of right ear.
- 4) Oblique dark brown abrasion 1*0.2 cm on back of pinna of left ear.
- 5) Left ear pinna swollen and dark.

II. Right upper limb:

6) Oblique dark brown Abrasion 11*9 cm on back of lower part of right arm.

7) Linear dark brown abrasion on front and lateral aspect of right arm on its lower third measuring 8*2 cm. This abrasion extends along the antecubital fossa, front of right elbow in zigzag manner up to 4*1 cm and again 4*1 cm.

8) Dark brown Abrasion 1*1 cm on back of right elbow.

III. Left upper limb:

9) Small dark brown Abrasion 0.5*0.25 cm on the back aspect of left elbow.

10) Bluish Contusion with overlying bruise on lower end of left arm extending to the front of left elbow. 6*2 cm * skin deep with skin peeled 1 cm diameter and with blood oozed spot;

11) dark brown abrasion 1.5 * 0.2 cm on back of left wrist.



12) Small dark brown abrasion 0.5*0.25 cm on back of left elbow;

IV Trunk and thorax:

Anterior aspect of trunk appears normal;

V Right lower limb:

13) Multiple transverse and oblique dark brown abrasions, 18 in number, with sizes varying from 6 cm, 4 cm, 10 cm and 2 cm with the breadth of 0.2 cm and one measuring 3*1.5 cm; In between the skin is bruised up to the right gluteal region.

14) Bluish contusion 51*27 cm on outer aspect and back of right thigh and right gluteal region;

15) Bluish Contusion 49 cm with 20 cm width from front of lower part of thigh, buttocks and back of middle thigh;

VI Right leg:

16) Entire right leg bruised with overlying dark brown abrasions 0.5*0.5 cm, 1*0.4 cm; 0.2*0.2 cm and 0.2*0.2 cm;

17) Dark brown Abrasion over the right Achilles tendon 1.5 cm diameter just above the right heel;

VII Right foot:

18) Back appears bluish contusion with boggy swelling 12*10 cm with overlying "v" shaped dark brown abrasion 2*0.5 cm;

VIII Left gluteal region:

19) Bluish Contusion of left gluteal region from the lower part of trunk over the left buttocks extending to the outer aspect of left thigh 54 cm length 18 cm width up to back of left knee;

IX Left lower limb:

20) Below left knee, in front, 1*0.3 cm dark brown abrasion;

21) Below, left knee to Outer aspect of left leg dark brown abrasion 1 cm diameter;

22) front of left leg elongated dark brown abrasion 9*0.5 cm

23) Outer aspect of left ankle dark brown abrasion 2*1.5 cm



24) Large Bluish Contusion on upper and outer part, length extending entire left thigh 37 cm from mid inguinal point of groin with 8 cm width above and 5 cm width below;

25) Diffuse and boggy Swelling, Bluish Contusion and bruising of the upper part of left foot 11*9 cm:

External genital organs normal;

X Posterior aspect:

26) Smaller dark brown abrasion and bluish contusion 0.2*0.2 cm over the right shoulder.

27) Smaller dark brown abrasion and bluish contusion 1.5*0.25 cm over the left side of upper part of back and left shoulder;

Internal injuries:

28) Bluish Contusion with blood clots of same size 9*6*1 cm on front right forearm;

29) Bluish Contusion with blood clots of same size 26*9*1 cm on back of right elbow and of right forearm;

30) Bluish Contusion on lower end of left arm extending to the front of left elbow 6*2 cm with skin peeled off.

31) Bluish Contusion with blood clots of same size 40*12*3 cm on front and back of left forearm;

32) 15*8*4 cm Dark red contusion with blood clots of same size on back of lower part of left forearm;

33) Diffuse Bluish Contusion with blood clots of same size 18*7*3 cm on front, outer side and back of left thigh from lower part of trunk;

34) Bluish Contusion with blood clots of same size 24*17*2 cm on front and both sides of right leg;

35) Bluish Contusion with blood clots of same size 41*13*2 cm on front and both sides of left leg;

36) Bluish Contusion with blood clots of same size 10*1*3 cm on outer side of lower part of left leg;"



The final opinion says that the cause of death is due to complications and multiple injuries sustained by the deceased. Therefore, while pending the anticipatory bail, this Court expressed its anguishment with regard to slabby investigation and also the respondent consumed more time for investigation, the respondent altered the offences into Sections 147, 148, 167, 323, 343, 348 and 302 of IPC as against all the petitioners herein. The deceased was taken into custody on 13.03.2015 and he was illegally detained till 16.03.2015. All the accused persons have attacked the deceased by lathy and other blunted weapons. Even though there was no recovery from the deceased, a false case was foisted as against the deceased and remanded him to judicial custody on 16.03.2015 as if he was arrested only on 16.03.2015. In pursuant to both the First Information Reports registered in Crime No.26 of 2015 for the offences under Sections 457 and 380 of IPC and Crime No.28 of 2015 for the offences under Sections 392, 397 and 506 (ii) of IPC, they also recorded the statement from the victim to justify the remand of the deceased on the file of the Perugavazhndan Police Station.

12. Therefore, it is clear that the petitioners have committed the offence under Section 302 of IPC in the year 2015 itself. It is a sorry state of affairs that even after transfer of investigation to the file of the respondent, the respondent failed to do proper and fair investigation and filed final report only in the year 2022 that too only for the major offence under Section 304(ii) of IPC. Though, the arrest of the accused is not mandatory, in view of the grave and serious offence committed by the petitioners, their custodial interrogation in this case is very much required. Even then, the respondent did not take any steps to secure them for custodial interrogation and even till now the accused are working in the Police stations. After intervention of this Court, the Superintendent of Police, CBCID, Central Zone, Chennai recommended to the Deputy Inspector General of Police, Thanjavur Range and Superintendent of Police, Tiruvarur to initiate departmental action against the petitioners. Therefore, the learned Chief Judicial Magistrate, Tiruvarur, rightly rejected the sureties produced by the petitioners under Section 88 Cr.P.C.

13. In view of the above, the judgments cited by the learned counsel for the petitioners are not applicable to the case on hand. Further as per the alteration of offences, the respondent ought to have conducted further investigation to file an additional report for which the custodial interrogation is very much required in this case.

14. Taking into consideration the facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioners.



15. Accordingly, these Criminal Original Petitions are dismissed.

WEB COPY

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15/06/2022

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 CHIEF JUDICIAL MAGISTRATE
THIRUVARUR, THIRUVARUR DISTRICT.

2 INSPECTOR OF POLICE,
CBCID POLICE STATION,
THIRUVARUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.SWAMI SUBRAMANIAN Advocate on payment of necessary charges SR.NOs. 9321 & 9322

+5 CC to M/S.N.MANOCHARAN Advocate on payment of necessary charges SR.NOs. 9235, 9236, 9238, 9239 & 9237

CRL OP.Nos.13191, 13196, 13280, 13285,

13288, 13292 and 13296 of 2022

Date :15/06/2022

RW-24/06/2022