



Crl.O.P.No.19014 of 2022

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G.K.ILANTHIRAIYAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 279, 337 IPC and altered into offences under Sections 279, 337 and 304A IPC and later altered into offences under Sections 279, 338, 304 IPC r/w Section 109 of IPC in Crime No.419 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that when the defacto complainant and his friends were travelling in a two wheeler as rider and pillion rider respectively, at that time, a car came from opposite side which was driven by the petitioner under the influence of alcohol in a rash and negligent manner and dashed against them, due to which, the defacto complainant and his friend had sustained injuries and later, the defacto complainant's friend succumbed to injuries. Hence, the complaint.



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3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that under the influence of alcohol, the petitioner has driven his car in a rash and negligent manner and dashed against the two wheeler in which the defacto complainant and his friend travelled as rider and pillion rider and caused injuries to him, later, the defacto complainant's friend/pillion rider succumbed to injuries. He would further submit that this Court already dismissed the petitioner's earlier anticipatory bail petition vide order dated 26.07.2022 in Crl.OP.No.17445 of 2022. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. It is seen that there is no evidence to show that the petitioner was under the influence of alcohol while driving the vehicle. That apart, the person who rode the two wheeler was under the influence of alcohol and the deceased was also under the influence of alcohol.



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6. Considering the fact and circumstances of the case and also the submissions made by both counsel, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, 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 on which the order copy made ready, before the ***learned Judicial Magistrate-V, Salem*** on condition that the petitioner 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 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 Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with 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 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]**.

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

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