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Crl.OP(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Dated: 23.06.2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.9890 of 2022

1.Seethalakshmi

2.Sivashanthi

: Petitioners/Accused No.2&3

Vs.

State through
The Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.
(Crime No.79 of 2022)

: Respondent/Complainant

For Petitioners : Mr.R.Anandharaj, Advocate for
Mr.K.R.Bharathi Kannan, Advocate

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor(Crl.side)

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

PRAYER :-

For Anticipatory Bail in Crime No.79 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as A2 and A3 apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 109, 324 and 307 IPC and section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.79 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The petitioners are facing the charges for the offences punishable under sections 294(b), 109, 324 and 307 IPC and section 4 of Tamil Nadu Prohibition of Harassment of Women Act.



3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the State.

4. The learned counsel appearing for the petitioners submits that no specific overt act has been attributed against the petitioners in the First Information Report and the death occurred, after the registration of the First Information Report. He would further submit that A1 was arrested and remanded to judicial custody on 08.05.2022. A1 moved the bail application before the learned Principal District Judge, Sivagangai and that came to be dismissed on 10.06.2022. The death occurred on 09.05.2022 at about 10.00 am. So, it is the contention on the part of the petitioners that after two days only, the death occurred, in which the petitioners are noway involved.

5. However, reading of the First Information Report shows that the deceased and the defacto complainant are the neighbors to the accused and there was a frequent quarrel between A1, his mother and his wife, namely Mangaiarkarasi. The accused were under the wrong information that the quarrel took place between them at the instance of the defacto complainant.

6. On 08.05.2022 at about 05.00 pm., when the defacto complainant and the deceased were standing in front of their house, A1 came there and made a quarrel and at that time, A2 and A3 instigated A1 to kill the deceased. At the instigation of the aforesaid two persons, A1 assaulted the deceased and the 2nd petitioner/A3 also assaulted the deceased with wooden log. At the intervention of the neighbors, the accused ran away from that place and the deceased was taken to the hospital.

7. By pointing out the contents of the First Information Report, it is the contention on the part of the learned counsel for the petitioners that the petitioners are noway involved in the assault. The assault was made only by A1 as per the FIR.

8. However, reading of the FIR, as I mentioned above, shows that the 2nd petitioner/A3 also assaulted the deceased. So, the contention that there was no specific overt act against the 2nd petitioner is not correct on records. Insofar as the 1st petitioner is concerned, she also instigated A1 to kill the deceased. However, considering the overt act that has been attributed against the 1st petitioner, learned counsel for the petitioners submits that she may also be granted anticipatory bail.

9. However, considering the fact that it is a case of murder, which took place out of a petty issue, unless a strong case has been made out by the petitioners, they are not entitled for the discretionary relief of anticipatory bail.



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10. In view of the foregoing discussions, this Criminal Petition deserves to be dismissed and accordingly, it is dismissed.

sd/-
23/06/2022

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

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,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) No.9890 of 2022
Date : 23/06/2022

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USK/JM/SAR-IV/05.07.2022/3P/3C