



Crl.O.P.No.4075 of 2023

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T.V.THAMILSELVI,J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 288, 304(A) of IPC and Section 9 of Prohibition of Employment as Manual Scavenger and their Rehabilitation Act, 2013 in Crime No.39 of 2023, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are the secretary of Bhaggyam Pragathi Owners Welfare Association, Chennai. They are having more than 250 apartments and the said apartment provides various facilities and amenities offered to the residents of the above said apartment. It is alleged that when the deceased was cleaning the septic tank in the apartment complex namely Bhaggayam Pragathi Flats, became unconscious and died. Despite of collecting money from the management services namely Ms. Best Property Management Services LLP, the petitioners failed to provide suitable skilled workers with all proper gears best known to them for the above said work. Hence, the complaint.



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3.The learned counsel for the petitioners would submit that neither the petitioners nor the firm are engaged in any activity relating to cleaning of septic tank in Baghayan Pragathi Apartments. Today when the matter is taken up for hearing learned counsel for the petitioners submitted that the petitioners without prejudice to their rights and contentions is ready and willing to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the credit of Cr.No.39 of 2023 as directed by this Court. Hence, he prayed for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners are liable for any act relating to the cleaning of the septic tank. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

Learned counsel appearing for the intervenor's association submits that the petitioners despite of collecting heavy amount from their management services failed to provide suitable skilled workers with all proper gears best known to them, for the above said work and because of



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their only negligence the death of the deceased Senthil Kumar had occurred.

Taking into consideration facts and circumstances of the case and also the fact that the petitioners have voluntarily come forward to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) amount to the credit of Cr.No.39 of 2023 and there is no possibility of tampering the evidence, this Court is inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners are directed 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 No.II, Alandur** on condition that the petitioners shall execute a separate 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:



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(a) the petitioners shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the credit of **Crime Number 39 of 2023** within a period of two weeks from the date of receipt of a copy of this order before the concerned Magistrate. On such deposit made, the learned Magistrate, shall obtain an affidavit of undertaking that the amount of Rs.5,00,000/- was deposited by the petitioners to the credit of **Crime Number 39 of 2023** within a period of two weeks. Since the deceased is unmarried th second class legal heir is permitted to withdraw the said deposit amount of Rs.5,00,000/- on proper identification and acknowledgment and if at all the owners of the flat are aggrieved over the same they have to work out their remedy in the manner known to law;

(b) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the petitioners shall report before the respondent police as and when required for interrogation;

(d)the petitioners shall not tamper with evidence



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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 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;

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

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