



Crl.O.P.No.6047 of 2023

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WEB CO **A.D.JAGADISH CHANDIRA, J.**

The petitioner, who apprehends arrest for the alleged offences under Sections 308, 333, 114 of IPC, 184 & 188 of Motor Vehicles Act, 1988 in Crime No.79 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant/Mohan – Sub Inspector of Police, E2 Royapettah Police Station is that he was deputed duty to attend vehicle check up along with one Elango/Special Sub Inspector and Jayakumar/Grade I Constable. While they were on duty at R.K.Salai near Nilgiris Point on 05.03.2023 at about 04.30 a.m., a car bearing Reg.No.TN 11 BC 1542 which was driven from West to East in a rash and negligent manner had dashed against the barricade, parapet wall and officials on duty and due to which the said Jayakumar sustained grievous injuries. The defacto complainant and others shouted at the driver of the car to stop the vehicle and the car stopped after some distance and the driver and the other persons in the car were found to be in an inebriated



condition and they were asked to undergo breath analyzer test. They refused to undergo the same and escaped from the scene of occurrence. It is also found that the breath analyser machine and mobile phone of the said Jayakumar were thrown away from the spot and found missing. Due to the accident, the said Jayakumar sustained injuries and he was in an unconscious stage, the defacto complainant and others took him to the Royapettah Government Hospital for treatment and the incident was duly informed to the higher officials. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely roped in this case. He would further submit that he was only a co-passenger in the car and he was neither a driver nor the person sitting with the driver in the front seat. He would further submit that the car was driven by A1/Kishore and he was arrested and also confessed that he is the person, who has driven the car and other than sitting as a co-passenger in the car, the petitioner has not committed any offence as alleged. However, taking into consideration the injury sustained by the Victim/Jeyakumar, the petitioner had offered to pay



an ex-gratia amount of Rs.1,50,000/- towards the medical expenses of the victim, and the petitioner has also handed over the same to the wife of the victim namely Kumutha, who has been identified by the respondent Police before this Court. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that when the defacto complainant and his party were involved in regular vehicle check up, the petitioner along with other occupants of the car who were in an inebriated condition had driven the car bearing No.TN 11 BC 1542 in a rash and negligent manner and dashed against the barricade and parapet wall and due to which the said Jayakumar sustained grievous injuries and the accused after creating ruckus and throwing away the breath analyser, fled away from the scene of occurrence. He would also submit that initially the injured was admitted in the Royapettah Government Hospital and since his condition got critical, he was shifted to Apollo Hospital for better treatment. He would further submit that as on date the family members of the injured had spent more than a sum



of Rs.15 lakhs towards medical expenses. He would submit that two persons namely Kishore/A1 and Lingam were arrested along with car and the said Kishore has confessed that he is the person, who has driven the car and Lingam was a co-passenger in the car. He would further submit that the investigation is still pending to fix the driver and the bail applications in respect of the arrested accused are also still pending. Hence, he opposed for grant of anticipatory bail.

5.Heard the learned counsel for the petitioner as well as the learned Government Advocate and perused the entire materials available on record.

6. Merely, because the petitioner has made an ex- gratia payment to the victim, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7.Taking into consideration the facts and circumstances of the case and the submissions made by either side and also considering that the petitioner has voluntarily handed over a sum of Rs.1,50,000/- as an ex-



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gratia payment to the victim/Jeyakumar towards the medical expenses, this

Court is inclined to grant anticipatory bail to the petitioner with certain conditions:

8. 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 Metropolitan Magistrate No.IV, Saidapet on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties 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., until further orders;

[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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