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Crl.O.P.Nos.8256 & 8355 of 2023

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S.SOUNTHAR, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 304 (2) IPC in Crime No.160 of 2023, seek anticipatory bail.

2.The allegation against the petitioners is that they engaged husband of the defacto complainant in the construction work of the petitioner in Crl.O.P.No.8256 of 2023 and he died due to electrocution during the course of employment and the same had happened only due to the negligence of the petitioners.

3.It was submitted by the learned counsel appearing for the petitioner in Crl.O.P.No.8256 of 2023 that the petitioner never engaged the victim in the construction work and he appointed petitioner in Crl.O.P.No.8355 of 2023 as contractor to do the construction work and he inturn appointed another sub-contractor and the said sub-contractor



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appointed the victim to do the work. The learned counsel for both the petitioners submitted that the petitioners had no privity of contract with the victim. The learned counsel appearing for the petitioners further submitted that as per the decision of the Village mediators, the petitioners agreed to pay a sum of Rs.7,00,000/- to the defacto complainant(wife of deceased victim) and so far she has been paid a sum of Rs.4,00,000/- and the remaining amount will be paid within a period of two weeks. The learned counsel for the petitioners agreed to pay the remaining sum of Rs.3,00,000/- to the defacto complainant within two weeks. He also produced the copy of the mediation agreement allegedly entered with the defacto complainant.

4. The learned Government Advocate (Crl. Side) appearing for the respondent opposed for grant of anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on record.



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6. In view of the submissions made by the learned counsel appearing for the petitioners and taking into consideration the facts of the case and the nature of the allegation made against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall make a payment of Rs.3,00,000/- to the defacto complainant as agreed by them, within a period of two weeks. It is made clear that the payment of compensation amount by the petitioners is the voluntary act out of humanitarian consideration and the same would not amount to admission of the guilt. The payment of amount by petitioners will not affect the right of the defacto-complainant to compensation, if any, in accordance with law.

7. With the above directions, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before



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the learned District Munsif Cum Judicial Magistrate, Cheyyur, on condition that the petitioner shall execute separate bonds 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 petitioners shall produce the proof for payment of Rs.3,00,000/- (Rupees Three Lakhs only) to the defacto complainant together with their affidavit for having paid the amount.

[b] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate shall obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners shall report before the respondent police once in a week at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[d] the petitioners shall not tamper the evidence 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



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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].

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

05.05.2023

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