



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P(MD)No.433 of 2023

Balasubramanian

...Petitioner/Petitioner/Accused No.1

-vs-

The State represented by
The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.
(in Cr.No.118 of 2022)

...Respondent/Respondent/Complainant

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.118 of 2022.

For Petitioner : Mr.S.Sathya Chidambaram, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 306 of IPC in Crime No.118 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Ganesan, is that his second daughter, Subbulakshmi was given in marriage to the first accused nine years ago and thereafter, his son-in-law had developed illicit intimacy with the wife of one Balaji, and his daughter reprimanded him and her daughter had also informed the de-facto complainant and she was in terrible stress. While so, on 16.07.2022, there was a quarrel and his daughter had asked the petitioner to sever the relationship and the same was refused and that his daughter has committed suicide by drinking pesticides and thereby, the de-facto complainant had given a complaint to take action against his son-in-law and the wife of said Balaji. Hence, the complaint.



3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that this is the second application for anticipatory bail and the earlier application was dismissed on 25.11.2022. He would also submit that the marriage between the petitioner and the de-facto complainant's daughter was solemnized nine years ago and the victim had suspicion that the petitioner was having an affair with one married woman and other than that, the petitioner has not committed any offence. He would also submit that as per the complaint, there is no averment that the petitioner has instigated or abetted the victim to commit suicide and he would submit that the Honourable Apex Court had held that if the husband gets involved in an extra marital affair, that may not be in all circumstances to invoke offence under Section 306 of IPC and definitely, it can be a ground for divorce or other relief in a matrimonial issue. He would reiterate that other than the allegations made by the de-facto complainant that the petitioner was having an illicit affair, there is no averment or abetment of instigation to commit suicide by the victim. He would also submit that petitioner is ready to abide by any stringent conditions that may be imposed on him.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is the husband of the deceased and the complaint has been given by his father-in-law and as per the father-in-law of the petitioner, the petitioner was married to the deceased nine years ago and thereafter, he had developed illicit intimacy with one Prakashini, wife of Balaji and the victim had committed suicide on account of the petitioner's illicit affair. He would object for grant of anticipatory bail to the petitioner.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., 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, Ambasamudram, Tirunelveli District, 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 passbook to ensure their identity.

[b] the petitioner shall stay at Tirunelveli and report before the Tirunelveli Town Police Station everyday 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.

sd/-
23/01/2023

/ TRUE COPY /

/01/2023

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

CMR
TO

- 1 THE JUDICIAL MAGISTRATE,
AMBASAMUDRAM, TIRUNELVELI DISTRICT.
 - 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.
 - 3 THE INSPECTOR OF POLICE
AMBASAMUDRAM POLICE STATION, TIRUNELVELI DISTRICT.
 - 4 THE INSPECTOR OF POLICE
TIRUNELVELI TOWN POLICE STATION, TIRUNELVELI.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.S.SAHYA CHIDAMBARAM, Advocate (SR-1072[I]

ORDER
IN
CRL OP(MD) No.433 of 2023
Date :23/01/2023

PKP/SSS/SAR-3/31.01.2023/3P/7C

<https://www.mhc.tn.gov.in/judis>