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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.598 of 2023

Ganesan,

... Petitioner/Accused No.5

Vs

State Rep.by
The Sub Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.
Crime No.453 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Sendhilkumar.M, Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.453 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 304(ii) of I.P.C., in Crime No.453 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant is that it was informed that the lorry, bearing Registration No. MH 12 M 6539 belonging to the company of the defacto complainant, was capsized in Trichy to Madurai Road. When he rushed near Ramakavundanpaatti and enquired, it is told that some persons followed the lorry due to which the driver of the lorry lost control and it got capsized. Thereafter, he came to Viralimalai and enquired. It is told that at 3.p.m when the lorry driver turned to Inam Kulathu Road, the lorry cut the EB wire and hence,

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the accused 1 to 5 along with some persons chased the lorry. The Wheelers and the driver of the lorry did not stop the lorry. Therefore, they hurled stones on the lorry due to which the driver has lost the control and the lorry capsized into to a pit. On the way to hospital, the lorry driver died. Hence, the complaint.

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3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would submit that as per the defacto complainant, he is not a witness to the occurrence and and he is also hearsay witness. He would also submit that the driver of the lorry had driven the lorry in rash and negligent manner and disconnected the electricity wire and he was chased by the accused and therefore, he drove the lorry in a rash manner and lost control due to which the lorry capsized in which he sustained injuries and died. He would further submit that the petitioner has been implicated in this case based on the statement recorded from the co-accused. He would submit that the main accused in this case have been released on bail by the learned Principal District and Sessions Judge, Pudukottai by order dated 05.01.2023 in Crl.M.P.Nos.14, 25 and 15 of 2023.

4. The learned Additional Public Prosecutor(Cri.Side) appearing for the respondent would submit that the accused chased the driver of the lorry and since he did not stop the lorry, they hurled the stones due to which the driver lost the control and the lorry capsized and the driver died on the way to the hospital. Hence, he prays for dismissal of this application.

5. Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner with certain conditions:

7. 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, Iluppur, 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 Pass Book to ensure their identity.



[b] the petitioner shall report before the respondent, daily at 10.30 a.m. until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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[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/-
10/01/2023

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

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TO

- 1 THE JUDICIAL MAGISTRATE,
ILUPPUR.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.SENDHILKUMAR M, Advocate (SR-568[I] dated 11/01/2023)

ORDER
IN
CRL OP(MD) No.598 of 2023
Date :10/01/2023

PKP/BUC/SAR-1/24.01.2023/3P/6C