



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2023

PRESENT

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

CRL.O.P(MD)No.1206 of 2023

WEB COPY

1.Lingammal
2.Manikandan

...Petitioners/A2&A3

-vs-

The State represented by
The Inspector of Police,
Medical College Police Station,
Tirunelveli City.
(Cr.No.2 of 2023)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.2 of 2023 on the file of the respondent Police.

For Petitioners : Mr.S.Arjun, Advocate

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 323, 324, 427, 353 and 506(i) of IPC and Section 3 of Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of violence and Damage or Loss to the property) Act, 2008 in Crime No.2 of 2023 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Dr.Nithish Arthor, who is working as a Trainee Doctor in Tirunelveli Medical College, is that one Gurusamy, aged 65 years, was admitted in a very serious condition for treatment and despite the efforts taken by the de-facto complainant and his team, they were unable to save him and he died while during treatment. When it was informed to the relatives of the deceased, the relatives, who are the accused herein, have abused the de-facto complainant and assaulted him with the glucose stand resulting in him sustaining injury. Hence, the case.

<https://www.mhc.tn.gov.in> The learned Counsel for the petitioners would submit that the



petitioners are innocents and a false complaint has been given against them. He would also submit that the petitioners' father, Gurusamy was admitted for treatment. However, the Doctor did not give proper treatment due to which, his father died and when it was questioned by the petitioners, a false complaint has been given, as if the petitioners and the other accused have assaulted the de-facto complainant. He would further submit that A1 has been arrested and he is in custody. He would also submit that the petitioners are not even allowed to attend the funeral ceremony of their father, Late Gurusamy and he would submit that the petitioners may be granted anticipatory bail. He would further submit that the injured has been discharged from hospital.

4.The learned Government Advocate (crl.side) would submit that the petitioners' father was admitted for treatment and he died while he was in treatment and that the petitioners along with other accused have abused the Doctor, who had given treatment and assaulted him with the glucose stand resulting in him sustaining injury. He would also submit that the injured has been discharged from hospital.

5.Heard the learned Counsel. 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 petitioners with certain conditions.

6.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 the learned Judicial Magistrate-I, Tirunelveli, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 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 petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.

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

[d] the petitioners 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 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 SC** .
[f] If the accused thereafter absconds, a fresh FIR can be
registered under Section 229A IPC.

sd/-

23/01/2023

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

CMR

TO

- 1 THE JUDICIAL MAGISTRATE-I,
TIRUNELVELI.
- 2 -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
MEDICAL COLLEGE POLICE STATION,
TIRUNELVELI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.1206 of 2023

Date :23/01/2023

VA/BUC/SAR-1/01.02.2023/3P/5C