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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 09/02/2023

PRESENT

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

CRL OP(MD) . No.1693 of 2023

V.Kandasamy

... Petitioners/Accused No.3

Vs

State Rep.by
The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
(Crime No.20/2023)

... Respondent/Complainant

For Petitioner : M/s.Solaisamy M, Advocate
For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

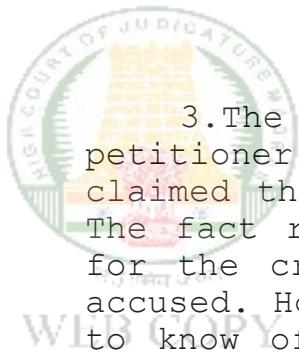
PRAYER :-

For Anticipatory Bail in Crime No.20 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 286, 337, 338, 304(2) IPC and Section 9(B)(1)(a) of Indian Explosives Act, 1884, in Crime No.20 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant D.Kamaraj, Village Administrative Officer, Thayilpatti Village is that on 19.01.2023 he had received intimation that there was a fire accident at Fireworks situated at Thayilpatti to Kanjampatti Road. He immediately rushed to the place of occurrence and enquired with the injured person. They informed that the first accused, who is the license holder of the fireworks had negligently dealt with the explosive substances, resulting in huge explosion, which had brought down the working shed. The occurrence had happened due to the negligence of Foreman. In the accident, five workers died and 23 other workers sustained injuries. Hence, the complaint.



3.The learned counsel for the petitioner submitted the petitioner is innocent. He would submit that the respondent has claimed that the petitioner is the licence holder of the premises. The fact remains that the petitioner is the major procuring agent for the crackers manufactured at the factory of first and second accused. However, he would further submit that the petitioner coming to know of the accident, is ready to pay an ex-gratia amount of Rs.1,00,000/- to the family members of each deceased, without prejudice to his right and contentions. Hence, prays to release him on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the first and second accused are running the Fireworks factory for several years and due to negligence in handling chemicals and explosive substances, there was an explosion, resulting in death of five persons and injuries to 23 persons. He would object for grant of anticipatory bail. However, he would submit that the injured persons have been discharged from the hospital on the same day.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.Taking into consideration the facts and circumstances of the case and considering the nature of dispute between the parties and also considering the readiness and willingness of the petitioner to pay ex-gratia amount to the legal-heirs of the deceased, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner as offered by him shall pay an ex-gratia amount of Rs.1,00,000/- (Rupees One lakh only) to the family members of each deceased, within a period of one week, from the date of receipt of copy of the order and he shall produce the receipt at the time of surrendering before the concerned Court, without prejudice to his rights and contentions. However, it is made clear that in view of the deposit being made by the petitioner, it would not amount to admission of guilt by him.

8.On such deposit being made, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.II, Sathur**, 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 police everyday at 10.30 a.m., for a period of two weeks, thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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]**; and;

[f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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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 NO.II, SATHUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE INSPECTOR OF POLICE, VEMBAKOTTAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.SOLAISAMY, Advocate (SR-2115[I] dated 10/02/2023)

ORDER

IN

CRL OP(MD) No.1693 of 2023

Date :09/02/2023

RS/SSS/SAR.4(15.02.2023) 3P-6C