



WEB COPY

CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/01/2023

PRESENT

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

CRL OP(MD) . No.1713 of 2023

1. Sakthi
2. Alagu
3. Chinnakkal

... Petitioners/Accused No.2to4

Vs

The State rep.by,
The Inspector of Police,
M.Chathirapatti Police Station,
Madurai District.
(Crime No.109/2022).

... Respondent/Complainant

For Petitioner : M/s.Aayiram K Selvakumar,
Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

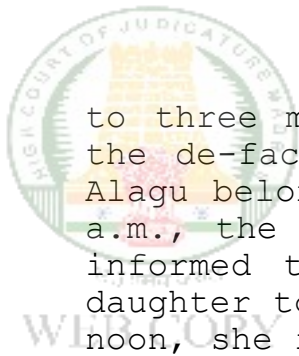
PRAYER :-

For Anticipatory Bail in Crime no.109/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 to A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 174 Cr.P.C. @ Sections 305 and 366 IPC and Sections 7, 8 and 17 r/w 21 of POCSO Act, in Crime No.109 of 2022 on the file of the respondent police, seek anticipatory bail.

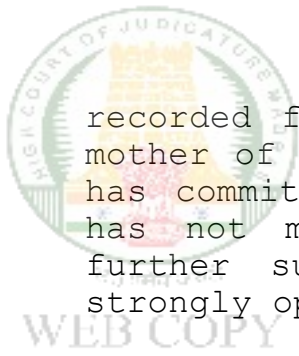
2.The case of the prosecution, as per the de-facto complainant Saravanaselvi, is that she got two daughters, one is aged 24 years and one minor daughter is aged 17 years and that the minor daughter was in 12 standard in Government School, Sathrapatti and prior



to three months of occurrence, the minor girl had quarrel with the de-facto complainant and gone and stayed with one Sakthi S/o, Alagu belonging to Thondaimanpatty. While so on 31.10.2022 at 08.00 a.m., the de-facto complainant's minor daughter had called her and informed that she is coming back to home and she had asked her daughter to come home and she had went to job. While so around 12.00 noon, she received a call from Mobile No.9344572406 stating that her daughter has suffered burn injuries in a fire accident, while she was cooking and that she was taken to Madurai Government Rajaji Hospital in 108 Ambulance and she had visited the ward and found that her daughter was admitted with burn injuries. While so, she died on the same day, without responding to the treatment at 11.40 p.m. Based on the complaint, the case was registered under Section 174 of Cr.P.C., and later, during the course of investigation, based on the Dying Declaration recorded, the case was altered into under Sections 305 and 366 IPC and Sections 7, 8 and 17 r/w 21 of POCSO Act against the said Sakthi and his father and mother. Hence, the case.

3.The learned counsel for the petitioner would submit that the first petitioner is alleged to be the lover of the minor victim girl and the petitioners 2 and 3 are the parents of the first petitioner. He would further submit that there was love affair between the first petitioner and the victim girl, who had completed 17 years during the relevant time and since the victim's parents compelled her to marry her someone against her choice, she had left her house and gone to the house of the first petitioner. He would further submit that despite the information given by the petitioners, the parents of the victim did not take any steps to take her back, whereas, she was taken care of by the petitioners 2 and 3. While she was in the house of the petitioners, the victim sustained burn injuries in a fire accident while cooking and other than that the petitioners have not committed any offence. He would further submit that the petitioners have taken the victim to the Madurai Government Rajaji hospital, where, a dying declaration has also been recorded from her by the learned Magistrate, wherein, the victim has not made any allegation as against the petitioners. He would further submit that the petitioners understand that in the dying declaration, the victim has stated that she had called her mother over phone and asked her to allow her to come back home, whereas, her mother had refused to take her back and thereby, the victim had committed suicide out of frustration, other than the victim has not made any allegations against the petitioners and thereby, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the victim is aged about 17 years, she had left her house and was living with the first petitioner for the past three months. While so, she has suffered burn injuries and she was taken to the hospital, where, she succumbed without responding to treatment on 31.10.2022. While she was alive, a dying declaration has been



recorded from the victim, wherein, she had stated that s^e the mother of the victim girl did not allow her to come back home, she has committed suicide by self immolation and other than that, she has not made any allegation against the petitioners. He would further submit that the investigation is pending. However, he strongly opposed to grant anticipatory bail to the petitioners.

5.Heard. Perused the materials available on record including the First Information Report and also the Dying Declaration of the deceased.

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

7.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 Court No.V, Madurai, on condition that the petitioners shall execute a 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 first petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday at 10.30 a.m., until further orders; the petitioners 2 and 3 shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, every Saturday 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 SCW 5560].



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

sd/-
31/01/2023

WEB COPY

/ TRUE COPY /

/02/2023

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

SJI

TO

1 THE JUDICIAL MAGISTRATE COURT NO.V, MADURAI.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
M.CHATHIRAPATTI POLICE STATION,
MADURAI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.1713 of 2023
Date :31/01/2023

VA/SAR-1/10.02.2023/4P/5C