



Crl.OP(MD)No.16019 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 13/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.16019 of 2023

Srinivasarav @ Srinivasan

: Petitioner/2nd Accused

Vs.

State of Tamil Nadu,
The Inspector of Police,
Srirangam Police Station,
Tiruchirappalli.
(Ref:Crime No.834 of 2023)

: Respondent/Complainant

For Petitioner : Mr.A.Ramesh, Senior Counsel
for Mr.D.Shanmugaraja Sethupathi, Advocate
For Respondent : Mr.B.Nambiselvan, Additional Public Prosecutor

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

PRAYER :- For Anticipatory Bail in Crime No.834 of 2023 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioner, who is arrayed as A2 apprehends arrest at the hands of the respondent police for the offence punishable under section 304(A) IPC r/w section 75 of Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.834 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that he admitted his elder son in Vishnu Prasath Srimaan Trust-



Crl.OP(MD)No.16019 of 2023

WEB COPY

Battar Gurugulam Paadasalai for learning Vedha and Agamas, some three years prior to the occurrence. His son is studying 7th Standard on the date of the occurrence. On 13/05/2023, he received a message for taking his son to home, on 15/10/2023. On 14/05/2023 at about 07.00 am, his wife received a phone call stating that his son drowned in Kollidam River. They went to the hospital and saw the body. On enquiry, one Gopalakrishnan informed that at about 06.00 hours in the morning, the students namely Vishnu Prasath, Hari Prasath and Sai Surya Abiram went to Kollidam River for taking bath. At that time, Vishnu Prasath crying that he has been swept away by the increasing flow water. Hari Prasath and Sai Surya Abiram tried to pull him out. But in the above said process, all the three persons drowned in the River. It was informed to the Warden Srinivasarav @ Srinivasan. With the help of neighbours, the body of Vishnu Prasath was brought and other two persons namely Hari Prasath and Sai Surya Abiram bodies were not recovered. On the basis of the above said occurrence, originally, the case was registered under section 174 Cr.P.C.

3.During the course of investigation, the involvement of this petitioner came to light. The respondent filed alteration report before the District Munsif-cum-Judicial Magistrate, Srirangam stating that the Founder of Srimaan Bhattar Gurugulam-Vedic namely Badrinarayanan and the Warden namely Srinivasarav @ Srinivasan and other managing staffs knowing fully well that if the childrens are sent to Kollidam River,



Crl.OP(MD)No.16019 of 2023

there is every likelihood of untoward incident of drowning. By sending the above said childrens to Kollidam River, they exhibited the criminal negligence. Because of the criminal negligence on the part of the accused, the death of three childrens occurred. So, the case was altered to section 304(A) and section 75 of the Juvenile Justice (Care and Protection) Act, 2015.

(*)deleted

5. Seeking anticipatory bail, this petitioner, who is arrayed A2 along with A1 namely Badrinarayanan, moved Crl.OP(MD)No.10299 of 2023. That was partly allowed granting anticipatory bail to A1 alone and so far as this petitioner is concerned, it was dismissed.

6. This is the second anticipatory bail petition that was filed by the petitioner on the limited ground that in the earlier application, a wrong information was given to the Court that as a measure of punishment only, the childrens were sent to Kollidam River for taking water.

7. Para 7 of the order reads as follows:-

"7. Admittedly the second petitioner is in charge of the said Gurukulam. He used to take the students to take baths in the Kollidam River. He also used to punish the students for their mistakes, in which, one of the punishments is that the students have to take water from the Kollidam River. Therefore, "wilful



Crl.OP(MD)No.16019 of 2023

WEB COPY

negligence" on the part of the second petitioner is clearly proved and he is responsible for the death of three tender children and they died due to the negligence on the part of the second petitioner."

8. Now pointing out this, the learned Senior Counsel appearing for the petitioner would submit that absolutely, it is not a case of punishment, sending the childrens to Kollidam River for taking water as a measure of punishment. According to him, absolutely, it is not the case of the prosecution.

9. The respondent is directed to present before this court and inform the fact that has been collected during the course of investigation. The respondent is present before this court and on enquiry, the respondent has submitted that as usual, the childrens went to Kollidam River, of course, without any assistance or guidelines of the Warden namely the petitioner herein to the very same place, which they used to take regular bath. On a particular day, there is heavy flow of water and because of that only, the above said unfortunate incident happened.

10. But however, the learned Senior Counsel appearing for the petitioner would submit that this is the first incident of such nature and so far, nothing unfortunate had taken place in that place, but the childrens after taking bath, instead of taking regular path, deviated from that and struck in the water current, of course, this petitioner was not present in the place of occurrence. So, according to him, what



Crl.OP(MD)No.16019 of 2023

happened is very unfortunate, for which, he is also ready to pay compensation to the family members of the deceased.

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11. Reading of the CD file does not indicate that only as a measure of punishment, the childrens were sent to Kollidam River for taking water. No doubt that the petitioner ought to have accompanied the childrens at the time of taking bath in the River. Whether the negligence on the part of the petitioner will amount to criminal negligence or not, is a matter for consideration by the Investigating Officer as well as the trial court.

12. Even though, it was submitted by the learned Senior Counsel appearing for the petitioner that on the particular day, there was heavy discharge of water in the River without proper intimation. But the learned Additional Public Prosecutor would submit that this is not correct statement of facts. Some two days prior to the occurrence only, the water discharged in the River. But whether there was heavy inflow on the particular day and whether in-spite of knowing the fact that there was heavy water flow, the petitioner was negligent in his duty is also a matter for consideration by the Investigating Officer. But as on date, the facts that have been gathered so far does not indicate the sudden heavy flow of water in the River. This is the statement of the petitioner, which is also not supported by any material. But after the occurrence, several remedial measures have been taken by the District



Crl.OP(MD)No.16019 of 2023

WEB COPY

Administration by placing the warning boards in that place, which shows that this is the first of such occurrence in that place.

13.To bring out the truth, the petitioner may be directed to appear before the respondent for the purpose of completing the process of investigation. So, I am not going to other aspects or whether section 75 of the Juvenile Justice (Care and Protection) Act, is attracted or not. I am also not going in detail in that matter.

14.Suffice to say that in view of the offer made by the petitioner to pay the compensation, instead of dismissing this petition, I am of the considered view that justice will be met, if the above said compensation is ordered to be paid by the petitioner. That will be the solace to the families of the deceased.

15.But the learned Additional Public Prosecutor would vehemently submit that because of the criminal negligence of this petitioner, three childrens, who were in the tendering age were removed from the earth.

16.In the facts and circumstances of the case, as mentioned above, no doubt that there was negligence on the part of the petitioner, either to escort or guide the children. No doubt that he failed. So, whether it will attract the offence under section 75 of the Juvenile Justice (Care and Protection) Act, is also a matter for consideration by the trial Court.

17.Even though, the above said section is not attracted, according to the learned



Crl.OP(MD)No.16019 of 2023

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Senior Counsel for the petitioner, as mentioned above, I am not going to that aspect now. Because recording of any observation may prejudice the investigation and trial process also. So, I am refraining from making any observation on that line.

18.In view of the above said facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned District Munsif-cum-Judicial Magistrate, Srirangam, Trichy and on his executing 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 learned Judicial Magistrate concerned and on further condition that the petitioner shall deposit Rs.5,00,000/- each as compensation for three childrens to the credit of the Crime No.834 of 2023 before the trial court namely the District Munsif-cum-Judicial Magistrate, Srirangam, Trichy. The legal-heirs of the deceased are permitted to withdraw the above said amount without waiting for the investigation or trial as the case may be. The above said compensation is without prejudice to the compensation that was received by the deceased families from the Government. On further condition that the petitioner shall appear before the respondent police daily at 10.30 am until further orders. The petitioner shall comply with the condition stipulated under [Section 438](#) Cr.P.C. scrupulously.



Crl.OP(MD)No.16019 of 2023

WEB COPY

19. After passing of the order, the learned counsel appearing for the petitioner would submit that whether the above said amount must be paid by the petitioner or by the Trust. It is for the petitioner to work out the same.

sd/-
13/09/2023

(*) Deleted as per the order of the Hon'ble Court
dated 17/10/2023 in CRL OP(MD)No.16019 of 2023.
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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

TO BE SUBSTITUTED WITH THE ORDER DATED 13/09/2023 ALREADY DESPATCHED

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, SRIRANGAM, TRICHY DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE, SRIRANGAM POLICE STATION, TIRUCHIRAPPALLI.

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

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-13636[I] dated 14/09/2023)



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Crl.OP(MD)No.16019 of 2023

ORDER
IN
CRL OP(MD) No.16019 of 2023
Date :13/09/2023

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