



WEB COPY



Crl.O.P.(MD)No.18400 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 17/10/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD)No.18400 of 2023

Mr.Periyakathan : Petitioner/Accused Rank
Not known

Vs.

State rep. by
The Sub Inspector of Police,
Melavalavu Police Station,
Madurai District.

(Crime No.85 of 2022) : Respondent/Complainant

For Petitioner : Mr.G.Anto Prince

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

PRAYER:-For Anticipatory Bail in Crime No.85 of 2022
on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioner, who is arrayed as an accused apprehends arrest at the hands of the respondent police for the offences punishable under sections 201, 302 and 34 IPC, in Crime No.85 of 2022 on the file of the respondent police, seeks anticipatory bail.



WEB COPY



Crl.O.P.(MD)No.18400 of 2023

2.The case of the prosecution is that the de-facto complainant is the wife of the deceased. The deceased name is Kanakaraj. The de-facto complainant lodged a complaint stating that the deceased, after completing BE decree was working in Coimbatore. Later, he returned to his native place and living there for about six months. Some five months prior to the occurrence, his Pangali namely Chinna Adaikan purchased 3 cents. In the above said 3 cents, Asaithambi demanded share stating that his father Chinnakathan is having right in that property. Over the above said issue, a complaint was given to the Melavalavu Police Station and it is under investigation.

3.On 24/06/2022 at about 03.00 pm, the deceased went to his Thottam for taking bath. After some-time, when she contacted through phone, it was found switched off. On suspicion, she went to Thope and found the deceased in the well. Neighbours gathered and one of the villagers took out the body from the well. At that time, he was found tied with ropes and there was a heavy head injury on the back of the head. Suspecting the involvement of Asaithambi, Kanadasan, Thavamani, Parthipan and Prabhu, she lodged a complaint. Hence, this case.

4.During the course of investigation, the involvement of one Mathivanan and Periyakathan came to light. So all other accused have been deleted from the



Crl.O.P.(MD)No.18400 of 2023

final report namely Asaithambi, Kanadasan, Thavamani, Parthipan and Prabhu.

5.During the course of the investigation, it was found that the deceased Kanagaraj was constructing a new building in Kesampatti area. In that building A1 namely Mathivanan demanded a portion for running a clinic. But Kanakaraj refused to rent. Because of that, there was enmity between Mathivanan and Kanakaraj. On the date of the occurrence, in the place of occurrence, again trouble arose between Mathivanan and the deceased. Mathivanan stated to have assaulted Kanakaraj on the back side of the head. Mathivanan was arrested. On investigation and interrogation, he gave a statement implicating this petitioner also.

6.The above said assault was intimated to this petitioner. Along A1, this petitioner alleged to have tied both legs of the deceased with a lungi and pushed down in the well. On the basis of the above said finding, during the course of the investigation, final report was filed against these two accused persons namely Mathivanan and this petitioner charging under section 302 and 201 IPC r/w 34 IPC.



WEB COPY



Crl.O.P.(MD)No.18400 of 2023

7. Seeking anticipatory bail, this petition has been filed by the petitioner on the main ground that except the confession statement of A1, no other document or material were collected during the course of the investigation against this petitioner.

8. Heard both sides.

9. From the perusal of the records, it is seen that originally Asaithambi, Kanadasan, Thavamani, Parthipan and Prabhu were suspected in the above said murder. But during the course of investigation, on suspension A1 was summoned by the Investigating Officer and he appeared, but later absconded. Suspecting their involvement further investigation was undertaken.

10. During the course of further investigation, it came to light that there was enmity between the deceased and A1 over the renting of portion of the building belongs to Kanakaraj. On the date of the occurrence, A1 alleged to have assaulted with reaper. The petitioner tied the body with a lungi and pushed down in the well. So this is the finding during the course of investigation. Enough material is available to implicate in the above said occurrence.



Crl.O.P.(MD)No.18400 of 2023

WEB COPY

11.Earlier, even at the time of moving the anticipatory bail, it was submitted before this court that this petitioner was ready to cooperate with the investigation process. But the anticipatory bail was dismissed. As stated above, A1 was arrested and during the course of statement only the above said enmity brought on record.

12.When strong motive has been suggested and supported in the form of statement of the witnesses, I find no reason to entertain this petition. The offence of this nature cannot be taken lightly stating that except the confession statement of the A1, no other material has been collected is not permissible. Since on going through the entire CD file, this court is not convinced any of the grounds made by the petitioner for granting anticipatory bail to him.

13.In the result, this criminal original petition is **dismissed.**

Index:Yes/No
Internet:Yes/No
er

17/10/2023



Crl.O.P.(MD)No.18400 of 2023

To,

1.The Inspector of Police,
Melavalavu Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.18400 of 2023

G. ILANGO VAN, J

er

Crl.OP (MD) No.18400 of 2023

17/10/2023