



CRL OP(MD). No.19163 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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M.R. Suresh

... Petitioner/ Accused

Vs

The State represented by
The Inspector of Police,
Kattuputhur Police Station,
Trichy District.
(In Crime No.254 of 2023).

... Respondent/ Complainant

For Petitioner : Mr.Mohammed Atheff, Advocate
for M/s.Ajmal Associates

For Respondent : Mr.M.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.254 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent



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police for the offences punishable under sections 174 Cr.P.C., @ into 304(ii) IPC in Crime No.254 of 2023, on the file of the respondent police, seeks anticipatory bail.

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2.The case of the prosecution is that on 15.10.2023, evening the daughter of the defacto complainant aged about six years went outside her house and did not return home even after the lapse of hour. On account of suspicion, the defacto complainant searched in the locality and finally he found her daughter's body floating on the pit had been dug for construction of Anganwadi Building. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a Contractor of the Mahatma Gandhi, National Rural Employment Scheme as on the alleged day, some of the petitioner labourers under the control of petitioner digging pits for the said construction work. On account of interruption of rain, the work was stopped by the employees. Without knowing the same, the child ensnared into the pit and passed away. He would further submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and hence, seeks anticipatory bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent



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submitted that due to the carelessness of the petitioner only the daughter of the defacto complainant has passed away and the investigation of the case is pending.

5. On perusal of the FIR, it is noticed that the petitioner is a Contractor of Government Scheme and he dig the pits for the construction work in the Angawadi and in that pit the daughter of the defacto complainant ensnared and passed away.

6. Taking into consideration the principles stated by the Honourable Supreme Court in **Gurubaksh Singh Sibbia Etc., vs. State of Punjab** reported in 1980 AIR 1632 and **Lal Kamlendra Pratap Singh vs. State of Uttar Pradesh and others** reported in (2009)4 SCC 437 and **Joginder Kumar vs. State of U.P. and others** reported in (1994)4 SCC 260, and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further, the petitioner is having permanent resident at Trichy District. In this circumstances, the principles stated in **Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar** reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the



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community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Thottiyam on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 shall appear before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.



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[d] 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]**.

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

sd/-
20/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP
TO

- 1 THE JUDICIAL MAGISTRATE,
THOTTIYAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KATTUPUTHUR POLICE STATION,
TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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ORDER
IN
CRL OP(MD) No.19163 of 2023
Date :20/10/2023

SS/JGB/SAR- /01/11/2023/6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023