



CRL OP(MD). No.19640 of 2023

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

Date : 22/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Krishna Kumar @ Krishna,

... Petitioner/ Accused No.3

Vs

1. State Rep.by

**The Inspector of Police,
Villoor Police Station
Madurai District.
Crime No. 61/2023.**

...Respondent/ Complainant

**(*)2. The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.**

() (Crime No.233/2023).**

...2nd Respondent

**(*) (R2 is Impleaded as Per Order of the Court
dated 15/11/2023 in CrI.MP(MD)No.15990 Of
2023 in CrI OP(MD)No. 19640 OF 2023 by
VSGJ)**

()Amended as per order of the court dated
17/11/2023 in CrI.MP(MD)No. 16334 OF 2023
in CrI OP(MD)No. 19640 of 2023 by VSGJ)**

For Petitioner : M/s. Shreedhar.M,Advocate.

For Respondent : Mr.RMS.Sethuraman,

Additional Public Prosecutor



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

PRAYER :-

For Anticipatory Bail in Crime No. 61 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 police for the offences punishable under section Man Missing subsequently, altered into Sections 120(B),364,302 and 201 of IPC in Crime No. 233 of 2023 on the file of the respondents police, seeks anticipatory bail.

2. The defacto complainant is the wife of the deceased. On 15.09.2023 the defacto complainant lodged a complaint stating that her husband used to go to Kerala for work and during that period he involved in a case in Kerala for which he was in prison for six years and thereafter, he returned home and then stayed at Villoor with her for some days. In the month of August 2018 the husband of the defacto complainant went to Trichy for work. Subsequently he has not contacted her and he has not returned home till date. Hence, she gave a complaint and a case was registered as Man missing. In the meantime a news was published in newspaper on

03.07.2023 that the one Varichyur Selvam has murdered one person at Tuticorin by
<https://www.mhc.tn.gov.in/judis>



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hitting him with car and thrown the dead body in Tambirabarani river, but at that time the said person was in prison in respect of Virdhunagar East Police Crime No.41 of 2021. On confession given by the accused in Crime No. 41 of 2021 it is revealed that he along with two others have committed murder of the husband of the defacto complainant and based on the said confession further investigation was done and it was revealed that the husband of the defacto complainant earlier worked as driver of the A1 from the year 2009 and subsequently he joined with rival group and instigated them to demand money from the petitioner in respect of another criminal activity of the petitioner. Hence the A1 had decided to murder the husband of the defacto complainant and executed the same. Accordingly on 01.09.2018 the A1 and two others have asked the husband of the defacto complainant to come to Pandiapuram toll gate and all of them have gone in a car bearing Reg. No. TN 59 CC 0100 and when they came near Valasamudram three of them alighted from the car and except the A1 who was driving the car. A1 has further driven the car, the petitioner herein and other accused have made the husband of the defacto complainant to fall down and the A1 has driven the car over the husband of the defacto complainant more than 10 times and crushed him and thereafter the accused persons have transferred the crushed body into a gunny bag and thrown the same in

Thambirabarani river. Hence, the complaint.

<https://www.mhc.tn.gov.in/judis>



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3. The learned counsel appearing for the petitioner would submit that the case has been registered in pursuance to the complaint given by the defacto complainant/Sugantha for the murder of her husband. Initially a case was registered as Man missing and subsequently altered in to sections 120(B),364,302 and 201 of IPC. He would further submit that as per alteration report the respondent police came to know about the murder of the deceased Easwaran on 03.07.2023 when the A1 came confession with regard to the case in Crime No.41 of 2021 for the offences under Sections 147,148,364, 302,404,201 of IPC r/w. 149,120(B) of IPC and Section 25(1A) and 25(1B)(b) of Arms Act. He would further submit that though the respondent came to know about the occurrence on 03.07.2023 they have not taken any action to register the First Information Report. They obtained complaint from the wife of the deceased on 15.09.2023 and the First Information Report was registered only on 15.09.2023 for Man missing and not for murder. Further the wife of the deceased did not state anything about his working place and under whom he is working as driver. But as per the confession given by A1, the deceased was working as driver for a long period under him. Further the body of the deceased was not recovered and there is no eye witnesses to the said occurrence and seeks anticipatory bail.



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4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that A1 has murdered the husband of the defacto complainant in a brutal manner and based on his confession, the petitioner herein is arrayed as accused. He would further submit that now, the said case is pending before the 2nd respondent police and the case has been registered in Crime No. 233 of 2023 for the offence under Sections 120B, 364, 302 and 201 IPC.

5. In pursuance of the complaint given by one Sugantha, case has been registered in Crime No.61 of 2023 on 15.09.2023 for "Man Missing". In the said complaint the defacto complainant has stated that her husband Bhuvaneshwaran @ Easwaran was missing and requested to take action. After registering the case, the respondent police arrested the A1 in connection with case in Crime No.41 of 2021, for the offence under Sections 147, 148, 364, 302, 404, 201 IPC r/w. Section 149, 120(B) IPC and 25(1A) and 25(B)(b) of Arms Act. In that case, it is alleged that he gave a confession that he had murdered the alleged Bhuvaneshwaran @ Eswaran. Based upon the confession, the petitioner was added in Crime No.61 of 2023 and subsequently, FIR was altered in Crime No.233 of 2023 on the file of the second respondent police, for the offences under Sections 120B, 364, 302 and 201 IPC. Further, the prosecution alleged that the deceased was working as a Driver under A1. Due to the enmity, A1



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murdered him and concealed his body and thrown it in Thamaraparani River, who substantiated the prosecution story, but, so far, no material has been collected by the prosecution to ascertain whether Bhuvaneshwaran @ Eswaran is alive or died. Further to support his story, the said Bhuvaneshwaran @ Eswaran was working as a driver under the A1, the police has not collected the driving licence to show by professionally he was a driver. In the first complaint given by one Senthilkumar it is stated that said deceased was a load man, but, nowhere stated he was professionally driver and working as driver in any one of the place especially under A1. In that circumstances, there is no material to show that the deceased Bhuvaneshwaran @ Eswaran was driver by profession, besides, he was working as a driver under A1.

6. Considering the nature of allegations made against the petitioner and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40 and the nature of the offence alleged by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner.

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



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arrest or on his appearance, within a period of three weeks from the date on which the order copy made ready, before the learned Judicial Magistrate, Ottapidaram 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 likesum 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 conditions that :

[a] the petitioner shall affix his photograph 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 appear before the trial Court on receipt of summons as directed by the trial Court.

[c] the petitioner shall not tamper with 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



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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/-
22/11/2023

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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,
OTTAPIDARAM.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THE INSPECTOR OF POLICE,
VILLOOR POLICE STATION
MADURAI DISTRICT.
- 4 THE INSPECTOR OF POLICE
OTTAPIDARAM POLICE STATION,
THOOTHUKUDI DISTRICT.



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

+1 CC to M/s.M.SHREEDHAR, Advocate (SR-16653[I] dated 22/11/2023)

ORDER
IN
CRL OP(MD) No.19640 of 2023
Date :22/11/2023

PKP/SKN/SAR- /29.11.2023/ 9P/ 7C

Madurai Bench of Madras High Court is issuing certified
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