



CrI.O.P.Nos. 835 etc., of 2024

CrI.O.P.Nos. 835 & 5259 of 2024, 28239 of 2023

C.V.KARTHIKEYAN, J.

The third accused has filed CrI.O.P.No. 835 of 2024, the fifth accused has filed CrI.O.P.No. 28239 of 2023 and the sixth accused has filed CrI.O.P.No. 5259 of 2024, all in Crime No. 849 of 2023 registered under Section 304(ii) of IPC.

2. It is the case of the prosecution that on 05.12.2023 a complaint had been lodged by the defacto complainant that his brother was working in M/s. Green Tech., as Supervisor. The brother had gone over to the spot of the construction site at Velachery on 04.12.2023 in the early morning at 04.00 a.m., by two wheeler and also informed that he had reached that particular place. Thereafter when the defacto complainant tried to contact his brother at 07.30 a.m., he was not able to get through since the phone was switched of. Thereafter, the defacto complainant went over to that particular place and found that the entire pit which was dug up for construction had been filled with water owing to storm and continuous heavy rain. A “man missing” case was registered in Cr.No. 848 of 2023. After a few days, on 08.12.2023, when the water was



Crl.O.P.Nos. 835 etc., of 2024

drained, they found the deceased body which was decayed. It was sent for postmortem. It is stated that subsequently, the First Information Report which was originally registered under “man missing” was altered to Section 304(ii) of IPC.

3. The third accused is the building contractor, who had been engaged to put up the basement in the said building. The sixth accused is said to be the project engineer of the third accused. The fifth accused is the supplier of earth moving machineries for the said construction.

4. On an earlier occasion, the anticipatory bail application of the co-accused had come up before this Court. It had been dismissed and thereafter, on arrest of the accused Nos. 1 and 2, bail had been granted to them.

5. The learned counsel for the petitioners pointed out the remoteness of the cause and effect between the work done by the petitioners and the probable effect of that work being the cause of death of the deceased. It is stated that owing to heavy rains, the pit which had



Crl.O.P.Nos. 835 etc., of 2024

been dug up had been filled with water and therefore, owing to reasons not under the direct control of the petitioners, the accident had occurred, leading to the unfortunate death of the deceased.

6. The learned counsel for the third accused stated that the third accused had paid a compensation of a sum of Rs.15/- lakhs to the family members of the deceased and also released yet another sum of Rs.15/- lakhs from the employer contribution of the Provident Fund. To that extent, bona fide is extended.

7. The matter had been listed before this Court for quite sometime. The investigation is also pending. But however, in order to give a quites to the entire issue, it would only be appropriate to grant anticipatory bail to the petitioners. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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



Crl.O.P.Nos. 835 etc., of 2024

learned IX Metropolitan Magistrate, Saidapet, Chennai, on condition that the petitioners shall execute a separate 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 this Court 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 petitioners shall appear before the respondent police daily 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.



Crl.O.P.Nos. 835 etc., of 2024

[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.

05.03.2024
(½)

vsg



WEB COPY



Crl.O.P.Nos. 835 etc., of 2024

C.V.KARTHIKEYAN, J.

Vsg

Crl.O.P.Nos. 835 & 5259 of 2024, 28239 of 2023

**05.03.2024
($\frac{1}{2}$)**