



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Twentieth day of December Two Thousand Thirteen
PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN

CRL OP(MD) No.19629, 19778, 21858 and 21859 of 2013

WEB COPY

BALAMURUGAN @ MULIKULAM PRABHU,	... PETITIONER/ACCUSED NO.4
	IN CRL OP(MD).19629/2013
SOWMYA	... PETITIONER/ACCUSED NO.5
	IN CRL OP(MD).19778/2013
BOOLOGAPANDI @ PANDI	... PETITIONER/ACCUSED NO.4
	IN CRL OP(MD).21858/2013
THANGAIAH	... PETITIONER/ACCUSED NO.4
	IN CRL OP(MD).21859/2013

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
PALAYAMKOTTAI POLICE STATION,
TIRUNELVELI DISTRICT,
CRIME NO.853/2013

... RESPONDENT/COMPLAINANT
IN ALL THE PETITIONS

For Petitioner : MR.N.R.ELANGO, SENIOR COUNSEL FOR
M/S. R. VIVEKANANTHAN Advocate
IN CRL OP(MD).19629/2013

For Petitioner : M/s.N.ANANDAKUMAR, Advocate IN CRL OP(MD).19778/2013

For Petitioner : M/s.V.NATARAJAN, Advocate, IN CRL OP(MD).21858/2013

For Petitioner : M/s.V.RAJAMOHAN, Advocate IN CRL OP(MD).21859/2013

For Respondent : MR.P.KANDASAMY, GOVERNMENT ADVOCATE (CRL.SIDE)

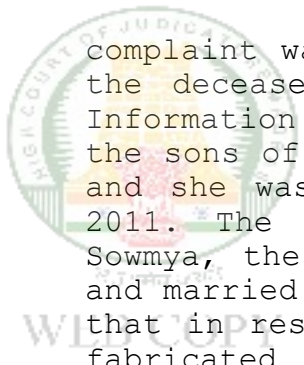
For Intervenor : MR.P.T.RAMESH RAJA, Advocate

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

ORDER : The Court Made the following order :-

The petitioner in Crl.O.P.(MD)No.19629 of 2013 is arrayed as A4, the petitioner in Crl.O.P.(MD) No.19778 of 2013 is arrayed as A5, the petitioner in Crl.O.P.(MD) No.21858 of 2013 is arrayed as A2 and the petitioner in Crl.O.P.(MD) No.21859 of 2013 is arrayed as A3 and the present applications are filed by way of second attempt, praying for anticipatory bail.

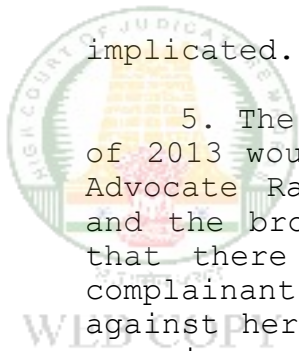
2. The petitioners apprehending arrest for the alleged commission of offences under Sections 147, 148, 341, 294(b), 323, 307, 302 and 506(ii) of I.P.C. and 120(b) I.P.C. and 3(1)(b) of TNPPDL Act in Crime No.853 of 2013, on the file of the respondent police. The offences were said to have been committed at about 13.30 hours on 31.08.2013 and the



complaint was lodged by one Rajapandi (Intervenor), who is the father of the deceased viz., Nambirajan, aged about 22 years. As per the First Information Report, Manivannan, Nambirajan (deceased) and Natarajan are the sons of the defacto complainant and Essakithai Sumathi is her daughter and she was given in marriage to Raguramaiah, an advocate in the year 2011. The sister of the son-in-law of the defacto complainant viz. Sowmya, the petitioner/A5 developed love affair with accused No.1 Ramesh and married him and it was not liked by Raguramaiah. It is further stated that in respect of the property belonging to Raguramaiah, A1 Ramesh had fabricated documents and entered into an agreement of sale with Balamurugan @ Mullikulam Prabhu, the petitioner/A4 in CrI.O.P.(MD) No.19629 of 2013 and on account of the same, enmity persists between Raguramaiah and Ramesh and with regard to the threat made by Ramesh, the deceased Nambirajan lodged a police complaint. It is further stated in the F.I.R. that on 30.08.2013, the defacto complainant came to visit her daughter and also his son Manivannan and Nambirajan, who is studying final year law course in Tirunelveli Law College. At about 12.00 noon on 31.08.2013, Manikandan, Narayanan, Nambirajan (deceased), his friend Kottaichamy proceeded in a Car bearing Registration No.TN 39 BE 1716 for the purchase of electrical appliances and the defacto complainant has proceeded to Bazaar at 1.00 p.m. on the same day for purchasing foot wear in the Bazaar. In the Bazaar, Nambirajan and others saw him and they came near him and the defacto complainant after purchasing the foot wear was about to start his two-wheeler and that juncture A1 Ramesh, A2 Boologapandi, his brother-in-law Thangiah and A4 Balamurugan @ Mullikulam Prabhu armed with Sword and Aruval had intercepted the car and A2 by using Aruval broken the window glass of the door and also attacked Narayanan, who was in the driver seat and Narayanan on receiving the attack ran away. A3 Thangiah has broken the glass window of the left side door and on seeing the same Manikandan and Kottaisamy, who were in the rear side of the car attempted to flee away and they were beaten and Thangiah by using Aruval threatened them with dire consequences. A4 Balamurugan @ Mullikulam Prabhu broken the wind shield and also the rear side glass and Nambirajan, who was on the back side of the car got down and ran towards Royal Foot Wear and he was chased by A1, A4 and A2 and was restrained and all of them repeatedly attacked with lethal weapons and consequently he has fallen down. The above accused also threatened the public with dire consequences and thereafter fled away from the scene of occurrence. Injured Nambirajan was taken to Government Hospital, Tirunelveli and died on that day at about 2.00 p.m.

3. Mr.N.R.Elango, the learned Senior Counsel appearing for the petitioner/A4 in CrI.O.P.(MD) No.19629 of 2013 has invited the attention of this Court to the statements of Narayanan, Manikandan and Kottaisamy recorded under Section 161(3) Cr.P.C. and would submit that as per the version of the defacto complainant in the F.I.R., they were eye-witnesses to the occurrence and as per their statements, A1 armed with a sword, Azhagu Durai @ Raja and Ravi @ Essakimuthu armed with Aruval; Ravi has broken the window glass and also attacked Narayanan with aruval; Azhagudurai @ Raja has broke open the wind shield and when Manikandan and Kottaisamy fled away they were attacked by Azhagudurai and deceased was chased and was attacked by A1 Ramesh and Azhagudurai repeatedly and consequently Nambirajan had fallen down.

4. It is the submission of the learned Senior Counsel for the petitioner/A4 in CrI.O.P.(MD) No.19629 of 2013 that as per the above said statements, A4 did not participate in the alleged attack and there is great variance between the contents of the F.I.R. and 161(3) statements of the above said eye-witnesses and it clearly implies that A4 is falsely



implicated.

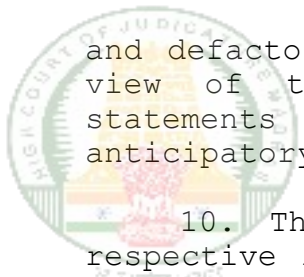
5. The learned counsel for the petitioner/A5 in Crl.O.P.(MD) No.19778 of 2013 would submit that A5 is the wife of A1 and she is the sister of Advocate Raguramaiah, who is the son-in-law of the defacto complainant and the brother-in-law of the deceased and in the F.I.R. except stating that there was misunderstanding between the son-in-law of the defacto complainant and his sister, who married A1, nothing has been attributed against her and at worse it can be said that she has participated in the conspiracy and in the absence of any evidence, her application for anticipatory bail may be sympathetically considered.

6. The learned counsel appearing for the petitioner/A2 in Crl.O.P.(MD) No.21858 of 2013 and petitioner/A3 in Crl.O.P.(MD) No.21859 of 2013 has adopted the submissions of learned Senior Counsel appearing for the petitioner/A4 in Crl.O.P.(MD) No.19629 of 2013 and it is further submitted by the learned counsel that the petitioner/A2 in Crl.O.P.(MD) No.21858 of 2013 was admitted in M.R.Hospital, Chennai - 29 for the treatment of Fracture of spinous process of C4 vertebra and with such a kind of injury, he cannot move at all from Chennai, where he was taking treatment and therefore, the complaint of the defacto complainant that on 31.08.2013, he was present at Tirunelveli and committed the crime is not at all believable.

7. The learned Government Advocate (Criminal side) has invited the attention of this Court to the counter affidavit filed in the earlier Crl.O.P.(MD) Nos.15786, 15913 and 15914 of 2013 and submitted that the defacto complainant, who is the father of the deceased is an eye-witness to the occurrence and the offences were committed at 13.30 hours on 31.08.2013 and without any loss of time, the complaint was lodged at 15.45 hours on the same day, specifically stating the overacts on the part of A2 A3 and A4 and considering the fact that with fear of life, the deceased Nambirajan has given an earlier complaint and also by the son-in-law of the defacto complainant, and the gravity of the offence, strongly opposes these petitions.

8. The learned counsel for the intervenor has invited the attention of this Court to the typed set of papers and would submit that the defacto complainant has earlier lodged a complaint in Crime No.738 of 2010 on the file of Tiruchendur Police Station against A1 Ramesh and A3 Thangiah for the commission of offences under Sections 448 and 506(ii) I.P.C. on 23.12.2010 and his son-in-law Raguramiah has also lodged a complaint on 19.07.2013 in that regard and his son/deceased Nambirajan has also given a complaint on 27.07.2013, specifically stating that A1 and A4 and 9 others have threatened him with dire consequences in respect of the property dispute between A1 and Raguramaiah and in the light of the same, it cannot be safe to enlarge the petitioners on anticipatory bail as the lives of the defacto complainant as well as his son-in-law viz. Raguramaiah, Advocate are in danger.

9. In response to the said submission, the learned Senior Counsel for the petitioner/A4 in Crl.O.P.(MD) No.19629 of 2013 would submit that in fact Raguramiah and advocates, including Bar President of Tirunelveli Bar viz., Muthuramalingam in connection with the dispute with A1 Ramesh barged into police station and attacked and damaged the property and in this connection a case in Crime No.458 of 2013 has been registered against Raguramiah and other advocates on 20.07.2013 for the commission of offences under Sections 147, 148, 332, 294(b), 323, 324, 307 and 506 (ii) I.P.C. and therefore, it is false to contend that life of Raguramiah



and defacto complainant are in danger and once again reiterated that in view of the discrepancies between contents of F.I.R. and 161(3) statements of other eye-witnesses, the plea made by the petitioner for anticipatory bail may be considered.

10. This Court carefully considered the submissions made by the respective learned counsel appearing for the petitioners and the learned Government Advocate (Criminal side) for the respondent and the learned counsel appearing for the intervenor and also gone through the typed set of documents.

11. It is pertinent to point out at this juncture that the deceased Nambirajan while he was alive has given a representation dated 27.07.2013 to the Deputy Commissioner, Tirunelveli City stating that on 26.07.2013 at about 9.00 a.m., when he was walking in front of Tirunelveli Law College, A1, A4 and 9 other known persons have surrounded him and A1 and A4 threatened him not to interfere with the property dispute between A1 and Raguramaiah, failing which they will be done to death. On 31.08.2013, Nambirajan was murdered at about 1.30 p.m. and it was witnessed by his own father, the defacto complainant and without any loss of time, he lodged a complaint and in the complaint, specific fatal overacts were attributed against A2, A3 and A4.

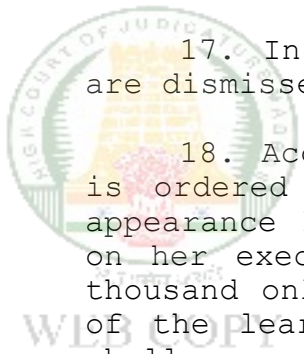
12. No doubt, the statements under Section 161(3) Cr.P.C. of three witnesses, who were said to have present at the time of occurrence would read that one Ravi @ Essaki Muthu and Azhagudurai had damaged the car and they repeatedly attacked deceased Nambirajan with lethal weapon. In the considered opinion of the Court, the said aspect can be gone into only at the time of trial of the case and not at the stage of consideration of the plea of the petitioners for anticipatory bail.

13. It is the contention of the learned counsel for the intervenor that A2 viz. Boologapandi @ Pandi is having six previous cases and A4 is closely associated with the prime accused viz. A1.

14. This Court taking into consideration of the motive for the commission of the crime and the manner in which the murder of a law college student has been committed in a broad day light on 31.08.2013 and further taking into consideration the previous enmity, is not inclined to enlarge A2 to A4/Petitioners in CrI.O.P.(MD) Nos.21858, 21859 and 19629 of 2013 on anticipatory bail.

15. The petitioner in CrI.O.P.(MD) No.19778 of 2013 is arrayed as A5 and she is the wife of the prime accused viz. Ramesh and it is the case of the defacto complainant that originally her father settled the property in her favour and she in turn settled it in favour of her husband, who entered into agreement of sale with A4 and in the interregnum, brother of A5, who is the son-in-law of the defacto complainant has filed a suit and got the settlement in her favour, set aside and she also instigated the commission of crime.

16. According to the prosecution, A5 is also a conspirator, but the fact remains that she was not present in the scene of occurrence and she and her brother Raguramaiah son in law of the defacto complainant is not on talking terms on account of the property dispute. In the light of the said facts and circumstance, this Court is inclined to enlarge the



17. In the result, Crl.O.P.(MD) Nos.19629, 21858 and 21859 of 2013 are dismissed and Crl.O.P.(MD) No.19778 of 2013 is ordered.

18. Accordingly, the petitioner/A5 in Crl.O.P.(MD) No.19778 of 2013 is ordered to be released on bail in the event of arrest or on her appearance before the learned Judicial Magistrate No.I, Tirunelveli and on her executing a personal 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 Magistrate concerned and on further condition that she shall appear before the respondent police daily at 11.00 a.m for a period of two weeks and thereafter as and when required for interrogation. The petitioner/A5 in Crl.O.P.(MD) No.19778 of 2013 shall comply with the conditions stipulated under Section 438 Cr.P.C. Scrupulously.

19. The petitioner/A5 in Crl.O.P.(MD) No.19778 of 2013 shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready failing which, the petition for anticipatory bail stands dismissed.

sd/-
20/12/2013

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE JUDICIAL MAGISTRATE, NO.I, TIRUNELVELI
- 2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE TIRUNELVELI
- 3 THE ADDL.PUBLIC PROSECUTOR MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 4 THE INSPECTOR OF POLICE PALAYAMKOTTAI POLICE STATION,
TIRUNELVELI DISTRICT

+1. CC to M/S.P.T.RAMESH RAJA Advocate SR.No.63850

+1. CC to M/S.N.ANANDAKUMAR Advocate SR.No.63779

+1. CC to M/S.V.NATARAJAN Advocate SR.No.63876

ORDER

IN

CRL OP (MD) No.19629, 19778, 21858 and
21859 of 2013

Date :20/12/2013

NA/20/12/2013/P5/8C