



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

Friday, the Twenty Seventh day of February Two Thousand Fifteen

PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.1951 of 2015

ASRAF ALI

... PETITIONER/ACCUSED RANK NOT KNOWN

Vs

THE INSPECTOR OF POLICE

KOTTAR POLICE STATION, KANYAKUMARI.

CR. NO. 6/2015.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.M.A.JINNAH Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for an alleged offence punishable u/s 341, 294(b), 307 & 506(ii) IPC @ 341, 294(b), 307, 506(ii), 120(B) & 153(A) IPC in Cr.No.6 of 2015, seeks anticipatory bail.

2. Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner and Mr.A.P.Balasubramanian, learned Govt.Advocate [crl.side] appearing for the State.

3. It is the case of the prosecution that on 02.01.2015, when the de facto complainant was travelling in his two wheeler, he was accosted by three persons and they attacked him with an iron rod and threatened him of dire consequences and fled. Initially, a case under Section 341, 294 (b), 307 and 506(ii) IPC was registered against three unknown persons and later, in the course of investigation, it came to light that the de facto complainant belongs to a political party and for communal reasons, he has been attacked. Therefore, the police altered the case into one of Section 141, 148, 341, 294(b), 307, 506(ii), 120(b) and 153(A) IPC.

4. On 08.01.2015, the police arrested one Maheen and in the confession statement, he has stated that he, along with other petitioners, wanted to target prominent members of the Hindu community and attack them. In pursuance of this plan, this petitioner had driven the motor cycle carrying the other two with him and they have intercepted the de facto complainant and attacked him. The de facto complainant suffered the following injuries:

"1. Laceration of left forearm (5 x 0.5 x 1cm)

2.Laceration of left hand dorsum over the base of 5th MC with fracture of 5th MC head (Grade I compound) (1.5 x 0.5 x. 0.5cm)

3.Laceration of right leg (4 x 1 x 1.5 cm) anterior

4.Laceration of left elbow (Grade II compound) (5 x 1 x 2.5 cm)



- with fracture of olecranon process of left ulna.
5. Lacerations of left leg - anterior aspect (5 x 1 x 1.5 & 1 x 0.5 x 0.5 cm)
 6. Laceration of left leg - lateral aspect (5 x 2 x 3.5 cm) with peroneal muscles cut.
 7. Fracture of base of 5th, 4th MC with displacement.
 8. Laceration of left thigh - M/3 (5 x 1 x 1.5 cm)
 9. Contusion with fracture of DPX right ring finger."

5. The learned counsel for the petitioner submits that the entire case has been fabricated in order to fix this petitioner by the police, because the police are very inimical towards this petitioner. The learned counsel would further submit that the very confession statement of the arrested accused ought not to be believed, in view of the fact that he was taken into custody much earlier and was forced to implicate this petitioner.

6. At this juncture, this Court perused the remand report relating to the arrested accused, in which the Magistrate has clearly endorsed that there is no complaint against the police officers. Moreover, this Court, while deciding the anticipatory bail application, cannot give a finding that the confession of the arrested accused is a tainted one. Though this Court has granted regular bail to Maheen in Crl.O.P.(MD) No.2006 of 2015 and Nazeer in Crl.O.P.No.1804 of 2015, this Court is of the view that this is not a fit case to grant anticipatory bail to the petitioner, taking into consideration, the nature and seriousness of the allegations against him and his custodial interrogation will be necessary to find out the involvement of others in the scheme. Hence, this Criminal Original Petition stands dismissed.

sd/-
27/02/2015

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

TO

1. THE INSPECTOR OF POLICE
KOTTAR POLICE STATION, KANYAKUMARI.
2. THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.M.A.JINNAH Advocate SR.No. 9435

SR : 02.03.2015 : 2P/4C

ORDER
IN
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Date :27/02/2015