



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

Wednesday, the Second day of December Two Thousand Fifteen
PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI
CRL OP(MD) No.22840 of 2015

S.PONSEKHAR

... PETITIONER/ ACCUSED NO.1

WEB COPY

Vs

1 THE INSPECTOR OF POLICE
VAIKOM POLICE STATION, VAIKOM,
KOTTAYAM DISTRICT, KERALA STATE.

2 THE INSPECTOR OF POLICE
SOUTH POLICE STATION,
THOOTHUKUDI DISTRICT.

... RESPONDENTS/ COMPLAINANTS

For Petitioner : Mr.G.THIRUVARUTSELVAN Advocate

For Respondent : Mr.K.ANBARASAN Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

Initially, the petitioner was arrayed as accused No.5 in S.T.No.733 of 2009, on the file of the Learned Judicial Magistrate First Class-I, Vaikom, Kerala for the alleged offences punishable under Sections 2(ia), (m), 7(i) and 16 (I) a of Prevention of Food Adulteration Act, subsequently the case was split up and the petitioner was arrayed as A1 in S.T.No.3596 of 2012, on the file of the learned Judicial Magistrate First Class-I, Vaikom, Kerala.

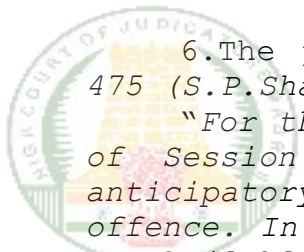
2.According to the petitioner, he was suffering from various illness and underwent heart surgery and eye surgery. He is a diabetic patient and he is taking treatment in Appollo Hospital, Chennai and other hospitals continuously. Therefore, he could not appear before the learned Judicial Magistrate, First Class-I, Vaikom. The case in S.T.No.733 of 2009 was split up against this petitioner and the accused Nos.1 to 4 were acquitted.

3.Now the learned Judicial Magistrate First Class-I, Vaikom issued a Non-Bailable Warrant on 22.11.2012 against this petitioner in S.T.No.3596 of 2012. The petitioner came to know the Non-bailable warrant issued against him only now. Immediately, he is taking steps to recall the warrant issued by the learned Judicial Magistrate First Class-I, Vaikom. The petitioner is residing within the territorial jurisdiction of the second respondent and he apprehends arrest by the second respondent police. Therefore, he has filed the present petition for seeking anticipatory bail.

4.The learned Government Advocate (Crl.side) submitted that the occurrence taken place within the territorial jurisdiction of the first respondent in Kerala State and this Court has not territorial jurisdiction to grant anticipatory bail.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The learned counsel for the petitioner relied on the order passed by this Court in Crl.O.P(MD)No.16680 of 2015, dated 17.11.2015.



6.The judgement of the Division Bench reported in 1992 L.W. (Crl.) 475 (S.P.Shanthi Swaroop vs. State of Tamil Nadu), it is held as follows:

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 of Cr.P.C., to grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court was having jurisdiction, this Court can grant them anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the mean time. The reference is answered accordingly."

7. In view of the judgment of the Division Bench referred to above and order passed by this Court in Crl.O.P(MD)No.16680 of 2015, dated 17.11.2015 and considering the facts and circumstances of the case, without deciding the merits on the complaint, this Court is inclined to grant anticipatory bail to the petitioner for a period of three weeks to enable him to move proper Court for recalling the Non-Bailable Warrant issued for his arrest.

8.Accordingly, the petitioner is ordered to be released on bail for a period of three weeks in the event of his arrest or on his appearance before the learned Judicial Magistrate No.I, Thoothukudi and on his executing a 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 the petitioner shall appear before the respondent police daily at 10.00 a.m., for a period of three weeks or till obtaining order recalling Non-Bailable Warrant.

sd/-
02/12/2015

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.I, THOOTHUKUDI.
- 2 DO THRO THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE, VAIKOM POLICE STATION, VAIKOM,
KOTTAYAM DISTRICT, KERALA STATE.
- 4 THE INSPECTOR OF POLICE, SOUTH POLICE STATION, THOOTHUKUDI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.G.THIRUVARUTSELVAN Advocate SR.No.68886

ORDER IN
CRL OP(MD) No.22840 of 2015
Date :02/12/2015