



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

Monday, the Twenty Seventh day of April Two Thousand Fifteen
PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM

CRL OP(MD) No.7462 of 2015

1 S. GNANA THIRAVIAM

2 XAVIER SELVARAJA

... PETITIONERS/ACCUSED Nos.1 & 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
VALLIYOOR POLICE STATION,
TIRUNELVELI,
(CRIME NO.45 OF 2015).

... RESPONDENT/COMPLAINANT

For Petitioner : MR.N.R.ILANGO, Senior Counsel for
M/S.C.MURUGANANTHAM Advocate

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

For Intervener : MR.MAHENDRAPATHY, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as A1 and A2, apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 147, 148, 341, 365 and 302 I.P.C in Crime No.45 of 2015 and hence, seek anticipatory bail.

2.The case of the prosecution that on 06.02.2015, the accused conspired together and attacked the deceased with deadly weapon and caused his death.

3. Mr.N.R.Ilango, learned Senior Counsel appearing for the petitioners for Mr.C.Muruganantham, submitted that the defacto complainant is not an eye witness to the alleged occurrence and as per the medical report, the deceased would not have been in conscious state of mind to give oral dying declaration to the defacto complainant. It is further submitted that there are corrections and manipulations in the Accident Register and the complaint was given at 05.00 p.m when the occurrence is said to have taken place at 11.00 a.m and FIR reached the Judicial Magistrate Court at 12.00 p.m. Therefore there is possibility of deliberations and consultation to implicate the petitioners in this case.



4. The learned Senior Counsel further submitted that the deceased was facing 23 criminal cases filed from the year 1995 and he was detained under Gundas Act on two occasions, which would show that the deceased was having lot of enemies and the petitioners are implicated with *malafide* intention. The learned Senior Counsel also produced the copy of the Accident Register and the Case Sheet of the deceased to establish that deceased could not have been in a position to speak to the defacto complainant. The learned counsel has relied on the judgment of the Hon'ble Supreme Court in **Sitdharam Satlingappa Mhetre Vs. State of Maharashtra and Others** reported in **2011 (1) SCC 694** in support of his argument that the petitioner is having personal liberty guaranteed under Article 21 of the Constitution of India and in cases of false implication, this Court can grant anticipatory bail.

5. Mr.A.P.Balasubramani, learned Government Advocate (Crl. side) submitted that the deceased was brutally attacked by the accused and he was taken by the car of the petitioners and the dead body was thrown after the occurrence. The petitioners are conspirators of the occurrence. The learned Government Advocate further submitted that except the petitioners, other accused A3 to A11 were arrested and released on bail and the defacto complainant, who is the wife of the deceased has filed a petition in Crl.O.P.No.3592 of 2015 before this Court for change of investigation.

6. Mr.Mahendrapathy, learned counsel appearing for the intervenor submitted that even assuming there are some corrections in the Accident Register which will be considering at the time of trial and it cannot be considered at this stage. The learned counsel further submitted that the petitioners are implicated on the basis of confession statement of the co-accused and the petitioner's applications were already considered and were rejected by this Court and there is no change of circumstances for granting anticipatory bail .

7. It is not in dispute that the deceased was having 23 cases to his credit and he was detained twice under Act 14 of 1982. Admittedly, the defacto complainant is not an eye witness to the occurrence and the medical reports revealed that the deceased would not have been in a



position to give oral dying declaration to the defacto complainant. If the deceased was on state of conscious mind, the police would have obtained dying declaration from the deceased. Indisputably, there are corrections in the Accident Register and the other accused were already granted bail.

8. Considering these facts, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Valliyoor, and on each of them 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 to the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily twice at 10.00 a.m and 5.00 p.m. until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. Scrupulously.

9. The petitioners 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/-
27/04/2015

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, VALLIYOOR.
 - 2 DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
 - 3 THE INSPECTOR OF POLICE
VALLIYOOR POLICE STATION, TIRUNELVELI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.C.MURUGANANTHAM Advocate SR.No.22410

ORDER IN
CRL OP(MD) No.7462 of 2015
Date :27/04/2015