



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

Wednesday, the Twenty Ninth day of April Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.8502 of 2015

WEB COPY

S.THANGARAJ

... PETITIONER/PROPOSED ACCUSED 8

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CHATHIRAPATTI POLICE STATION,
OOMACHIKULAM CIRCLE,
MADURAI DISTRICT.
CRIME NO.1050 OF 2014

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.RUPERT J.BARNABAS Advocate

For Respondent : MR.K.V.RAJARAJAN,
Govt. Advocate (Crl. Side)

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

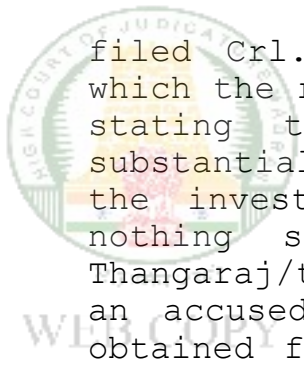
ORDER : The Court Made the following order :-

The petitioner is A8 apprehends at the hands of the respondent police for the alleged offences punishable under sections 302 IPC @ 147, 148, 120(B), 364 and 302 of IPC, in Crime No.1050 of 2014 on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that the daughter of A1 and the deceased fell in love with each other, due to which on 22.09.2014, the accused have attacked the deceased Siva @ Sivarajan and caused his death.

3.Mr.Rupert J.Barnabas, learned counsel for the petitioner submitted that the petitioner is a practising Advocate and he was the counsel for A1 and A2 and the case was registered on 22.09.2014 and in order to discharge his professional duties, he moved applications for bail before the Sessions Court in Cr.M.P.Nos.8166 and 8754 of 2014 and the Sessions Court granted bail to them on 20.11.2014 and 02.12.2014 respectively.

4.The learned counsel further submitted that the case was registered, on the basis of the complaint given by the mother of deceased, namely Saraswathi; that she and the daughter of A1 had also given statements recorded under section 161(3) Cr.P.C on 22.09.2014 and 23.09.2014 and in those statements, the name of the petitioner was not implicated; that the de-facto complainant, being not satisfied with the investigation conducted by the respondent,



filed CrI.O.P(MD)No.367 of 2015 for change of investigation, in which the respondent has filed a counter/status report on 16.02.2015 stating that the de-facto complainant had never given any substantial evidence against the petitioner and during the course of the investigation, the other accused had given confession, but nothing stated with regard to the alleged role played by Thangaraj/the petitioner. While so, the petitioner was implicated as an accused in this case, based on the 164(1) Cr.P.C statements obtained from the de-facto complainant and the daughter of A1 on 24.02.2015 and 10.04.2015 respectively.

5.The learned counsel further submitted that after a lapse of 7-1/2 months, the petitioner has been implicated in this case and except, the 164 statements, no other materials were available against the petitioner.

6.The learned counsel further submitted that even in the 164 statements, the allegation against the petitioner is that he instigated the other accused to commit the offence. It is further stated that 164 statement is not a voluntary one and after 164 statement, the de-facto complainant withdrew the petition filed for change of investigation, which shows that the statement was given at the instigation of the respondent.

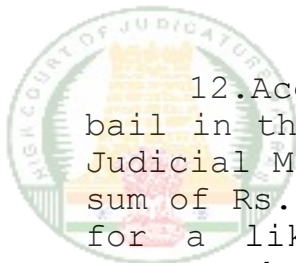
7.The learned counsel further submitted that the other accused were arrested and released on bail and the custodial interrogation of this petitioner is not at all required in this case.

8.Per contra, the learned Government Advocate (Criminal side) vehemently opposed the petition contending that the petitioner was implicated as an accused, on the basis of the statement given by the de-facto complainant and the daughter of A1 on 24.02.2015 and 10.04.2015 and in the case of grave offences anticipatory bail cannot be granted.

9.Indisputably, neither in the complaint, nor in the 161 statements given by the de-facto complainant, namely Saraswathi and the daughter of A1, dated 22.09.2014 and 23.09.2014, there is absolutely no allegation against the petitioner. It is the specific case of the petitioner that he filed bail petitions for A1 and A2 in discharge of his professional duties and A1 and A2 were granted bail on 20.11.2014 and 02.12.2014 by the Sessions Court and that is the only ground for roping him in this case.

10.It is not in dispute that in the counter/status report filed by the respondent, dated 16.02.2015, it is specifically stated that there is no material available against the petitioner and he was implicated only on the basis of the statement given by the de-facto complainant and the daughter of A1 in the month of February 2015 and April 2015. The prosecution could not produce any other material to connect the petition with this case.

11.Considering the above facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.



12. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.II, Madurai 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 two weeks and thereafter as and when required for interrogation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

13. The petitioner 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/-

29/04/2015

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

TO

1 THE JUDICIAL MAGISTRATE, NO.II, MADURAI

2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE MADURAI DISTRICT

3 THE INSPECTOR OF POLICE CHATHIRAPATTI POLICE STATION,
OOMACHIKULAM CIRCLE, MADURAI DISTRICT.

4 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. RUPERT J. BARNABAS Advocate SR.No.24189

ORDER

IN

CRL OP(MD) No.8502 of 2015

Date : 29/04/2015

NA/04/05/2015/P3/6C