



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

Monday, the Twenty Fifth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.11341 of 2016

E.MALAICHAMY

... PETITIONER/ACCUSED NO.6

Vs

STATE REP.BY

THE INSPECTOR OF POLICE,

KA.VILAKKU POLICE STATION, THENI DISTRICT.

CRIME NO.31 OF 2016

... RESPONDENT/COMPLAINANT

For Petitioner : M/S C.BETHANASAMY, Advocate

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

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

ORDER : The Court Made the following order :-

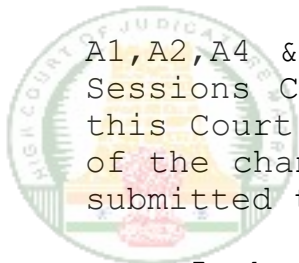
The petitioner, who is arrayed as accused No.6, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 302 of IPC altered into 120(b), 302 of IPC r/w 109 of IPC, in Crime No.31 of 2016, on the file of the respondent police and hence, seeks anticipatory bail.

2.The case of the prosecution is that due to previous enmity, the petitioner and other accused murdered the deceased on 06.02.2016. On complaint, initially a case has been registered under Section 302 of IPC and later altered into Sections 120(b), 302 of IPC r/w 109 of IPC.

3.The case of the petitioner is that the petitioner is working as Police Constable in Tharapuum Police Station. He was working in the said police station on the date of occurrence. The deceased was having illicit intimacy with wife of brother of petitioner and A1. Due to that, A1 threatened the deceased. On 07.02.2016 the body of the deceased was found near Toll Gate. Complaint was given only against A1 and on the confession of A1, this petitioner was added as accused. The petitioner is younger brother of A1. This petitioner already filed Crl.O.P.(MD)No.7117 of 2016 for anticipatory bail and the same was withdrawn on 27.04.2016. Again he filed Crl.O.P.(MD) No.7885 of 2016 for anticipatory bail without mentioning the earlier petition in Crl.O.P(MD)No.7117 of 2016. Therefore, the petitioner withdrew the said petition on 02.06.2016. The petitioner is an innocent person and he has not committed any offence as alleged by the prosecution.

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

4.The learned counsel for the petitioner submitted that



A1,A2,A4 & A5 were arrested and enlarged on bail by the Principal Sessions Court, Theni and A3 was arrested and enlarged on bail by this Court in CrI.LO.P(MD)No.6529 of 2016, dated 18.04.2016. In view of the changed circumstances, the learned counsel for the petitioner submitted that the petitioner may be granted anticipatory bail.

5.The learned Government Advocate (CrI.Side) that the petitioner and other accused conspired together and murdered the deceased due to the fact that the deceased had illicit intimacy with wife of brother of petitioner and A1 and investigation has been completed and the charge sheet had already been filed before the concerned Court and the same is not yet taken on file.

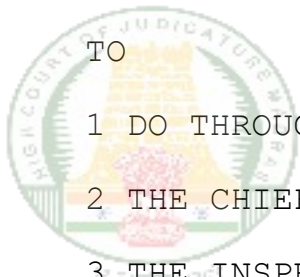
6.Considering the facts and circumstances of the case and also considering the fact that the occurrence took place on 06.02.2016 and co-accused were already arrested and enlarged on bail, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Andipatti, on condition that the petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the petitioner shall report before the learned Judicial Magistrate, Antipatti in all future hearing dates, without fail.
- (ii) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iii) the petitioner shall not abscond either during investigation or trial.
- (iv) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

7.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioner is complying with the conditions or not.

sd/-
25/07/2016

/ TRUE COPY /



TO

1 DO THROUGH THE JUDICIAL MAGISTRATE, ANDIPATTI.

2 THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

3 THE INSPECTOR OF POLICE, KA.VILAKKU POLICE STATION, THENI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S C.BETHANASAMY Advocate SR.No.39546

AM

CSL/AAL-MPA/SAR-I/29.07.2016 : 2P/6C

ORDER

IN

CRL OP(MD) No.11341 of 2016

Date :25/07/2016