



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

Tuesday, the Eighth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CRL OP(MD) No.21029 of 2016

1 PETCHIMUTHU
2 MANIKANDAN
3 KARTHICK
4 MUTHA
5 RAMALKSHMI
6 MUTHUMANI
7 VEERASARAVANAKUMAR
8 VEERAPANDI
9 MANIKANDAN
10 KATHIRESAN
11 PANDIARAJAN

..PETITIONERS/ACCUSED 1,3 & 12

Vs.

STATE REP.BY
THE INSPECTOR OF POLICE
K.PUDUR POLICE STATION,
MADURAI.
(CRIME NO.1494/2016)

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.P.GUNASEKARAN Advocate

For Respondent : M/s.S.PRABHA, Government Advocate (Crl.Side)

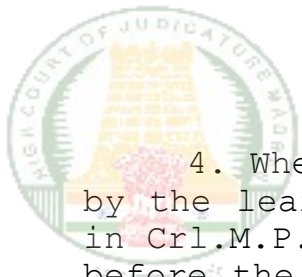
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148 and 294(b) IPC and Section 3 of TNPPDL Act, 1992 in Crime No.1494 of 2016 on the file of the respondent police, the petitioners have come forward with this petition seeking anticipatory bail.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent police.

3. The case of the prosecution is that the petitioners along with other accused abused the defacto complainant in filthy language and damaged the Omni Van, worth about Rs.1 lakh, which resulted in registration of the present case.



4. When the matter was called on 04.11.2016, it was represented by the learned Government Advocate (Crl.Side) that similar petition in Crl.M.P.No.5404 of 2016, seeking anticipatory bail was also filed before the learned Principal District Judge, Madurai by the accused by engaging some other counsel and the said case was adjourned to 07.11.2016.

5. Learned counsel for the petitioners has submitted that no such petition has been filed by the petitioners before the District Court, Madurai.

6. Therefore, this Court, in order to ascertain the real fact, directed the Registry to call for report from the Principal District and Sessions Judge, Madurai regarding the details of the Advocate, who is said to have filed such petition and also directed the District Court not to permit the counsel to withdraw the case and adjourned the matter to today.

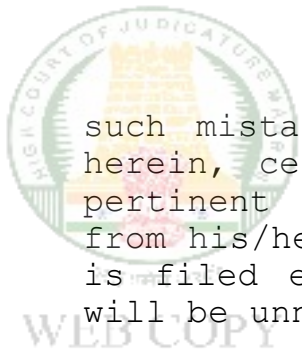
7. Accordingly, the learned Principal District Judge, Madurai has forwarded a copy of the petitions filed by the accused before the Court below in Cr.M.P.No.5404 of 2016 and Cr.M.P.No.5383 of 2016, from which, it is evident that Cr.M.P.No.5404 of 2016 has been filed by one Ramalakshmi, who is the 5th petitioner herein and other accused, namely petitioners 1 to 4 and 6 to 11 herein have filed Cr.M.P.No.5383 of 2016 for anticipatory bail, out of which, Cr.M.P.No.5383 of 2016 was dismissed as withdrawn on 04.11.2016, the date on which this Court directed the Registry to ascertain the fact.

8. When the suppression of fact was pointed out to the learned counsel for the petitioners, he has filed an affidavit of one Muthu / 4th petitioner herein, who is the son of Ramalakshmi / 5th petitioner herein, in which it has been stated as follows:

"1) I am the Deponent herein and 4th Petitioner in Crl.O.P.No.21029/2016.

2) I respectfully submit that myself and other Petitioner approached and instructed the present counsel to move Anticipatory Bail application on our behalf before this Honourable Court. Whereas, my mother the 5th Petitioner due to her illiteracy and ignorance appears to have instructed Mr.Rajasekaran, Advocate to move an Anticipatory Bail petition before The Sessions Court, Madurai. Infact, an application was moved before the Sessions Court purely because of the ignorance of my mother who has no knowledge about the legal consequences."

9. Though the conduct of the petitioners is deprecated, the statement made in the affidavit by the 4th petitioner herein that her mother, out of her ignorance, without knowing legal implications and out of fear of arrest, has instructed another counsel to file similar petition before the Court below, is accepted and in case of



such mistakes recurring in future on the part of the petitioners herein, certainly they will have to face the consequences. It is pertinent to point out here that the Advocate, who accepts brief from his/her clients, must ensure as to whether any similar petition is filed either before this Court or Court below, otherwise they will be unnecessarily roped into enquiry and consequent debarment.

10. At this juncture, learned counsel for the petitioners would submit that he is not pressing this petition against Ramalakshmi / 5th petitioner herein, as she will work out her remedy before the District Court in the pending petition.

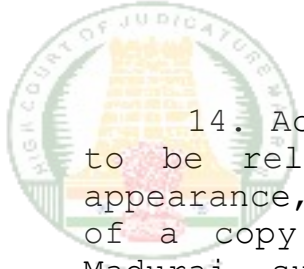
11. When I was sitting in the Principal Seat on 26.10.2016, a contempt petition in Cont.P.No.1368 of 2016 was listed before me, in which, the Contemnor, who appeared as Party-in-Person, stated that he has neither seen the Advocates nor instructed them to file a petition on his behalf. Therefore, on 26.10.2016, this Court, while suo motu impleading those Advocates as Contemnors and ordering statutory notice, issued a general direction to the Registry as follows:

"8. This Court makes it very clear that henceforth, anticipatory bail application should be in the form of an affidavit/petition duly signed by the petitioner/petitioners concerned in all pages. If the anticipatory bail application is filed in petition format, the Advocate on record should sign in all the pages of the petition and if the anticipatory bail petition is filed in the affidavit format, the person who is attesting the affidavit shall sign in all the pages. In either case, the name of the Advocate/Attesting Person should be written in capital letters, mentioning his place of qualification, Enrollment Number and Cell Phone Number."

Therefore, all the Trial Courts shall follow this procedure henceforth while entertaining anticipatory bail petitions.

12. Every year, the Bar Council seeks particulars from the Advocates as to whether they have filed at least one Vakalath in a year to ascertain about the practice. Likewise, it will be highly helpful, if the Bar Council mandates attestation of vakalath or filing of affidavit before the Court in a year apart from vakalath, by providing the details with regard to their qualification, the name of the college from where he/she obtained law degree, Enrollment Number, Cell Number etc., so that the Bar Council will come to know of the antecedents of those Advocates easily.

13. Coming to the present case on hand, taking into account the fact that there was no bodily injury and only damage to a car worth about Rs.1 lakhs and some exchange of unparliamentary words, this Court is of the view that custodial interrogation of the petitioners 1 to 4 and 6 to 11 is not necessary at this stage. **Therefore, this Court is inclined to grant anticipatory bail to them.**



14. Accordingly, the petitioners 1 to 4 and 6 to 11 are ordered to be released on bail in the event of their arrest or appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate No.VI, Madurai, subject to the following conditions:

(i) each of the petitioners 1 to 4 and 6 to 11 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two common sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) each of the petitioners 1 to 4 and 6 to 11 shall deposit Rs.5,000/- (Rupees Five Thousand only) to the credit of Crime No.1494 of 2016 before the learned Judicial Magistrate No.VI, Madurai within a period of two weeks from the date on which a copy of this order is made ready;

(iii) the petitioners 1 to 4 and 6 to 11 shall report before the respondent police daily at 10:30am until further orders for interrogation;

(iv) the petitioners 1 to 4 and 6 to 11 shall not tamper with evidence or witness either during investigation or trial;

(v) the petitioners 1 to 4 and 6 to 11 shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioner released on bail by the 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]**.

15. This Petition in respect of the 5th petitioner is dismissed as not pressed. It is open to the Court below to decide the petition pending before it for anticipatory bail on merits and in accordance with law.

sd/-

08/11/2016

/ TRUE COPY /

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

TO

1 THE PRINCIPAL DISTRICT JUDGE, MADURAI.

2 THE JUDICIAL MAGISTRATE NO.VI, MADURAI.

3 DO THRO THE CHIEF JUDICIAL MAGISTRATE, MADURAI.



4 THE INSPECTOR OF POLICE, K.PUDUR POLICE STATION, MADURAI

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

Copy to : 1) The Section Officer, 'F' Section,
Madurai Bench of Madras High Court, Madurai.
(Issue a circular to all the Courts dealing with Criminal
matters along with a copy of this order)

2) The Authorised Incharge,
The Bar Council of Tamilnadu and Union Territory
of Puducherry.

+1cc to M/s.P.GUNASEKARAN, Advocate in SR.67555

ORDER N
CRL OP(MD) No.21029 of 2016
Date :08/11/2016

PBK/EM-MPA/SAR-I 14/11/2016 ::2P-9C: