



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

Thursday, the Fifteenth day of June Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP (MD) No.4909 of 2017

IN

CRL OP (MD) No.4266 of 2017

V.P.RAJU,

... PETITIONER/ PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
KADUPATTI POLICE STATION,
KADUPATTI,
MADURAI DISTRICT.
(CRIME NO.78/2012).

... RESPONDENT/ RESPONDENT

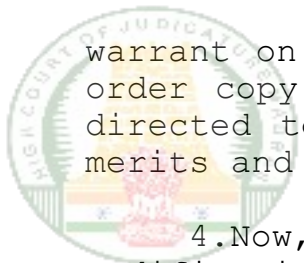
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the order passed in the above Crl.O.P.(MD)No.4266 of 2017 dated 18.04.2017 and consider the grant of anticipatory bail to the petitioner on merits.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioner and of M/S.A.RMAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

Heard both sides.

2.The petitioner has filed anticipatory bail application in Crl.O.P.(MD) No.4266 of 2017 before this Court stating that as absconding charge sheet has been filed against the petitioner by the respondent in crime No.78 of 2012 on the file of the respondent police, for the alleged offences punishable under Sections 294(b), 323, 506(ii) of I.P.C. and Section 4 of Woman Harassment Act, is now pending in C.C.No.83 of 2013 on the file of the Judicial Magistrate Vadipatti. However, due to absence of the petitioner before the Court, non bailable warrant was issued against the petitioner by the trial Court on 15.07.2012 and now, the case is posted on 19.07.2017.

3.When the matter came up before this Court, this Court, on 18.04.2017, directed the petitioner to surrender before the concerned Magistrate and to file a petition for recalling the



warrant on 21.04.2017 or within 10 days from the date on which the order copy made ready and the learned Judicial Magistrate was also directed to consider the same on the same day and pass orders on merits and in accordance with law.

4.Now, the petitioner has come forward with this petition for modification and brought to the notice of this Court that during the investigation, the petitioner never apprehended arrest by the respondent police. Hence, he did not file for anticipatory bail petition and the petitioner is a practicing lawyer at Chennai and now is aged about 59 years.

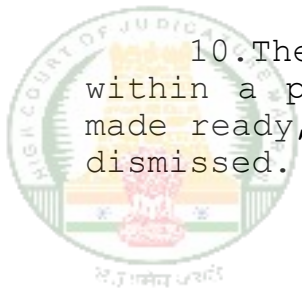
5.Now, the apprehension of the petitioner is that if the petitioner approaches the Magistrate, the learned Magistrate would not withdraw the non bailable warrant issued against the petitioner as absconding charge sheet has been filed. The petitioner relied on the judgment reported in 1998-1 L.W. (Crl.) 102 - Natturasu and 3 others V. State by S.I. of Police, etc. , wherein, this Court specifically held that even at the committal stage, the accused can approach the High Court or Session Court, since the words in the event of arrest" would also mean "in the event of remand the accused to custody on committal"provided he is not on bail earlier.

6.The petitioner would also bring to the notice of the Court that mere issuing warrant for arrest would not affect the powers under Section 438 of Cr.P.C., to grant anticipatory bail, since the issuance of warrant is yet another ground to make a plea before the High Court or the Court of Session by the accused that he has got a valid reason to believe that he would be arrested in respect of the case, which was taken on file for the accusation of non-bailable offence.

7.Here, the petitioner had an apprehension that the petitioner being a practising lawyer in the Principal Seat and the respondent filed an absconding charge sheet, if he appears for surrender before the learned Judicial Magistrate, he may be arrested by the respondent police. Therefore, he comes by way of modification petition.

8.This Court finds there is some force in the submission made by the learned counsel for the petitioner and therefore, the order dated 18.04.2017 is modified and this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Vadipatti 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 on further condition that the petitioner shall appear before the Judicial Magistrate, Vadipatti on all hearing days without fail.. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.



10. 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/-
15/06/2017

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/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, VADIPATTI.
2. DO THOUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
3. THE INSPECTOR OF POLICE, KADUPATTI POLICE STATION,
KADUPATTI, MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADRUAI.

ORDER
IN
CRL MP (MD) No.4909 of 2017
IN
CRL OP (MD) No.4266 of 2017
Date :15/06/2017

MS/CM.MSA/19.06.2017/3P.5C