



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

Thursday, the Thirteenth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP(MD) No.7790 of 2017

KARMEGAM

... PETITIONER/1ST ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
S.S. COLONY POLICE STATION,
MADURAI,
CRIME NO.656/2016

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.RAMU Advocate

For Respondent : MR.A.RAMAR, Additional Public Prosecutor

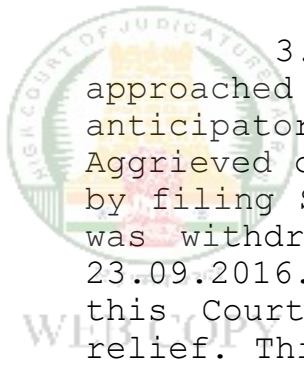
For Intervenor : M/S.C.JEGANATHAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioner is the first accused in Crime No.656 of 2016 on the file of the respondent police, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 341, 294(b), 323, 506(ii) of I.P.C and Section 3 of TNPPDL Act and hence, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the driver of the owner of Gowri Krishna Hotel situated at S.S.Colony, By-pass Road, Madurai. On the previous motive of the petitioner and the defacto complainant's owner, on 07.06.2016, at about 6.00 a.m, three persons were distributing pamphlets containing defeater statements against the owner and the management of the hotel and therefore, the same was informed to the respondent police. Even then, on the same day, three persons were distributing defamatory pamphlets at Aavani state junction, S.S.Colony entrance. While so, when the defacto complainant entered into the premises, he was attacked with deadly weapon by three persons at the instigation of the petitioner and the front mirror of the car was damaged and therefore, a case was registered against



3. The petitioner further submits that on apprehension he approached this Court in Crl.O.P.(MD).No.9198 of 2016 praying for an anticipatory bail which was dismissed by this Court on 29.06.2016. Aggrieved over the same, the petitioner approached the Supreme Court by filing Special Leave Appeal No.7163 of 2016, wherein, the appeal was withdrawn by him with liberty to apply for regular bail on 23.09.2016. In a given situation, again the petitioner approached this Court by filing Crl.O.P.(MD).No.20203 of 2016 for the same relief. This Court, once again, dismissed the petition filed by the petitioner and directed him to get regular bail as directed by the Supreme Court.

4. Learned Senior Counsel appearing for the petitioner would argue that since the apprehension is existing, the petitioner is entitled to move the present bail application. Hence, he prayed for appropriate orders.

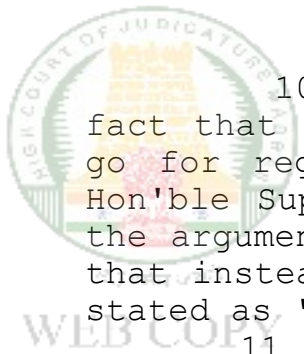
5. The learned Additional Public Prosecutor would submit that as per the direction issued by the Supreme Court, the petitioner has to approach the lower Court concerned for getting bail and therefore, prayed for the dismissal of this application.

6. On perusal of the documents, it is seen that Crl.O.P.(MD).No.9198 of 2016 was dismissed by this Court on 29.06.2016 considering the serious nature of the case against the petitioner. Against which, the petitioner filed Special Leave Petition No.7163 of 2016, wherein, learned Counsel sought permission to withdraw the petition with liberty to apply for regular bail.

7. Therefore, it goes without saying that the meaning of 'regular bail' means that the petitioner has to surrender before the appropriate Court and get regular bail. A specific finding of the learned Judge against which Special Leave Petition was filed by the petitioner would indicate the fact that custodial interrogation was necessary in that matter and therefore, the Court was not inclined to grant anticipatory bail and only against that order, Special Leave Petition was filed and sought permission of the Court to withdraw the petition to apply for regular bail.

8. Subsequently, the petitioner has filed one another application in Crl.O.P.(MD).No.20203 of 2016, wherein, the learned Brother Judge has elaborately heard and discussed the merits of the matter and subsequently, dismissed the application on 20.03.2017 stating that since liberty has been granted to the petitioner to apply for regular bail, the present petition for anticipatory bail is not maintainable and therefore, dismissed the anticipatory bail.

9. When that being the factual position of the matter, once again, the petitioner has filed the present application attempting to state that what was granted before the Supreme Court was a typographical mistake that instead of stating as 'regular Court', it was stated as 'regular bail' which cannot be accepted by this Court as there is specific finding of this Court in Crl.O.P.(MD).No.9198 of 2016, wherein, it was observed that custodial interrogation is necessary in this matter and anticipatory bail which was again dismissed by this Court



10. In the light of the factual position coupled with the fact that the Supreme Court has already directed the petitioner to go for regular bail, there is no ambiguity in the order of the Hon'ble Supreme Court and the attempt of the petitioner to canvass the argument that it was an error in the order of the Supreme Court that instead of stating that 'regular Court', the Supreme Court has stated as 'regular bail', cannot be accepted by this Court.

11. If the petitioner has got any doubt as to the order by the Supreme Court, the petitioner should have very well filed a petition for clarification before the Supreme Court rather moving this Court by filing the application after application for anticipatory bail and therefore, in my considered view, this petition is not maintainable in view of the specific order passed by the Supreme Court to the effect that the petitioner has to move the regular bail and therefore, this petition lacks merits and stands dismissed.

sd/-
13/07/2017

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

TO

- 1 THE INSPECTOR OF POLICE,
S.S. COLONY POLICE STATION, MADURAI.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 cc to M/S.M.RAMU, ADVOCATE IN SR No. 26485
+1 cc to M/S.VEERA ASSOCIATES, ADVOCATE IN SR No. 26405

SSM
CSL/CM-MSA/SAR-II/14.07.2017 : 2P/5C

ORDER
IN
CRL OP(MD) No.7790 of 2017
Date :13/07/2017