



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

Wednesday, the Ninth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.9359 of 2017

MOORTHY

... PETITIONER/ACCUSED RANK NOT KNOWN

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
OTTAPIDARAM POLICE STATION,
THOOTHUKUDI DISTRICT,
CRIME NO. 40/2017.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.A.THIRUVADI KUMAR Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 448, 294 (b), 323, 427, 355, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act in Crime No.40 of 2017 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner trespassed into the de facto complainant's house and pulled and pushed down her and kicked the child of the de facto complainant's and also threatened her with dire consequences.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that it is a case of case in counter and the counter case has been registered on the basis of complaint given by the petitioner herein against the one Santhanaraj, who is the father of the de facto complainant and 8 advocates. Due to a civil dispute between the petitioner and Santhanaraj a suit in O.S.No.263 of 2015 before the Principal District Munsif Court, Thoothukudi and the suit was dismissed for default. Thereafter, the petitioner filed a petition in I.A.No.181 of 2017 to restore the said suit and notice was issued to the respondent. At this juncture, the said Santhanaraj had trespassed into the property and caused extensive damage to the cattle shed and based on the instruction, the petitioner herein has lodged a



complaint before the respondent Police. After receiving the said complaint, the respondent herein had belatedly registered the FIR and also induced the faction of Santhanaraj to give the counter complaint and the same has also been registered.

4. Earlier, the petitioner has filed a petition in CrI.O.P. (MD) No. 7746 of 2017, seeking anticipatory bail before this Court and this Court by order dated 22.06.2017 enlarged the petitioner on bail. The copy of the order was received on 28.06.2017 and the petitioner produced the sureties before the concerned Court on 13.07.2017 and it was returned by the concerned Court, stating that time granted by this Court is elapsed. Hence, the petitioner has filed the present petition seeking anticipatory bail.

5. The learned Additional Public Prosecutor appearing for the respondent Police on instructions would submit FIR was registered against 4 persons and during investigation, the present petitioner has been implicated as accused and thereafter the name of the three accused were deleted from the FIR and petitioner herein is arrayed as A1. He further submitted that A2 was granted anticipatory bail by the concerned Sessions Court and injured person was discharged from the hospital and investigation is still pending.

6. Considering the facts and circumstances of the case and also taking note of the fact that the injured was discharged from the hospital, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Vilathikulam 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the learned Judicial Magistrate, Vilathikulam daily at 10.30 a.m. until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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)**.

sd/-

09/08/2017

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, VILATHIKULAM.

2 THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.

3 THE INSPECTOR OF POLICE
OTTAPIDARAM POLICE STATION, THOOTHUKUDI DISTRICT.

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

+1. CC to M/S.A.THIRUVADI KUMAR Advocate SR.No.28521

GNS/VSA

CSL/BS/SAR-IV/18.08.2017 : 3P/6C

ORDER

IN

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Date : 09/08/2017