



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

Monday, the Sixth day of March Two Thousand Seventeen
PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP (MD) No.364 of 2017

WEB COPY

RAMMOHANRAO

... PETITIONER/SOLE ACCUSED

Vs

STATE REP.BY ,
THE INSPECTOR OF POLICE,
KARAIKUDI NORTH POLICE STATION,
KARAIKUDI,
SIVAGANGAI DISTRICT.
CRIME NO.692/2016

... RESPONDENT/COMPLAINANT

U.SELVAM

... PETITIONER/INTERVENER

For Petitioner : M/S.S.MADHAVAN Advocate

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

For Intervenor : M/S.A.ILAYARAJA, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as sole accused, in Crime No.692 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 269, 270, 294(b), 420, 506(i) IPC r/w 18 (b)(c) of Drugs and Cosmetics Act and hence, seeks anticipatory bail.

2.Heard the learned counsel for the petitioner and the learned Government Advocate(Crl. Side) for the respondent/State and the learned counsel appearing for the intervenor.

3.The case of the prosecution is that the defacto complainant's wife admitted in the petitioner's hospital for treatment for stomach pain and after examining her, the petitioner found stone in her kidney and in order to strengthen her body transfused blood into her body. The defacto complainant has paid a sum of Rs.40,000/- towards treatment charges to the petitioner for his wife. Immediately after the treatment the defacto complainant's wife complained of blurring of vision on left side eye. Hence, she was referred to Aravind Eye



Hospital for examination and the patient stated that due to transfusion of infected blood, the left eye was completely damaged. Therefore, the defacto complainant has lodged the present complaint against the petitioner.

4. The learned counsel for the petitioner submitted that the petitioner is a practicing doctor; whether the blurring of vision happened only due to the transfusion of the blood is yet to be found out; and the petitioner is innocent.

5. When the learned counsel for the intervener / defacto complainant strenuously opposed the relief sought for in this petition, the learned counsel for the petitioner produced a decision of the Hon'ble Supreme Court in **Jacob Mathew Vs. State of Punjab**, reported in **(2005) 6 SCC 1**, wherein the Hon'ble Supreme Court has held that a private complaint under Section 304-A IPC for medical negligence may not be entertained, unless there is a credible opinion given by another competent doctor and the investigating officer should obtain an independent and competent medical opinion before proceeding and that the doctor accused of rashness and negligence may not be arrested in a routine manner. In the present case, admittedly, there is no credible opinion given by another Doctor.

6. Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner relying upon the decision of the Hon'ble Supreme Court in Jacob Mathew case, cited supra, 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 before the learned Judicial Magistrate, Karaikudi 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 respondent police as and when required for interrogation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

7. 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/-
06/03/2017

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE, KARAIKUDI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

3 THE INSPECTOR OF POLICE,
KARAIKUDI NORTH POLICE STATION, KARAIKUDI, SIVAGANGAI DISTRICT.

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

+1. CC to M/S.S.MADHAVAN Advocate SR.No.12672

gcg

CSL/PM-PN/SAR-III/08.03.2017 : 3P/6C

ORDER

IN

CRL OP(MD) No.364 of 2017

Date :06/03/2017