

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. RAJAMANICKAM
CRIMINAL ORIGINAL PETITION No.18543 of 2018

K.BHARATHIRAJA [PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
VADAPALANI POLICE STATION,
CHENNAI 600 026
CR.NO.284 OF 2018.

For Petitioner : M/S.R.PRABHAKARAN Advocate

For Respondent : MR.M.PRABHAVATHI GANESH RAM, ADDL.PUBLIC PROSECUTOR

For Intervener : MR.K.SEETHA RAM Advocate

PETITION FOR ANTICIPATORY BAIL 438 Cr.P.C.

ORDER : The Court Made the following order :-

This petition has been filed by the Petitioner / Accused seeking anticipatory bail for the alleged offences punishable under Sections 295-A and 506(i) of I.P.C.

2. Heard Mr.R.Prabakaran, learned counsel for the petitioner and Ms.Prabhavathi Ganesh Ram, learned Additional Public Prosecutor for the respondent and Mr.K.Seetha Ram, learned Advocate appearing for the intervenor/defacto complainant.

3. The case of the prosecution is that the petitioner had called the Hindu god Ganesha as ''imported god'' at an event. He had also allegedly said that if poet Vairmuthu were to face any dishonour, he wouldn't hesitate to behead those who had caused it.

4. The learned counsel for the petitioner has submitted that already this Court has granted anticipatory bail to the petitioner in CrI.O.P.No.13677 of 2018 dated 23.05.2008. He further submitted that since the petitioner was not doing well, he could not surrender before the concerned Judicial Magistrate within the time stipulated by this Court in CrI.O.P.No.13677 of 2018. He further submitted that the petitioner has got highest regard and respect towards the Court and sincerely apologize for not surrendering before the concerned

Judicial Magistrate and not executing the bail bond as per the order passed by this court and undertakes to comply with the conditions. He further submitted that the petitioner hereinafter will not seek any further extension of time and he is ready and willing to comply with the conditions that may be stipulated by this Court. He further submitted that since already the anticipatory application was allowed on merits, now the court may consider the request of the petitioner and grant some more time to surrender before the concerned Judicial Magistrate and execute a bond.

5. The learned counsel for the intervenor/defacto complainant has submitted that the petitioner has wilfully not obeyed the order passed by this Court and he has not surrendered before the learned Judicial Magistrate within the time stipulated by this Court. He further submitted that even after getting order in the earlier anticipatory bail application, the petitioner has indulged in the same kind of offence and hence another case has been registered against him by Triplicane police station and in that case also, he got anticipatory bail, but he has not surrendered before the concerned Judicial Magistrate and not executed the bond and hence, he strongly opposed this petition.

6. The learned Additional Public Prosecutor Government Advocate (Crl.Side) has adopted the arguments advanced by the learned counsel for the intervenor. She further submitted that the petitioner may be directed to appear before the Court and tender apology.

7. This Court after considering the rival submissions has passed order in Crl.O.P.No.13677 of 2018 dated 23.05.2018 granting anticipatory bail to the petitioner with the condition that the petitioner should surrender before the concerned Judicial Magistrate within a period of 15 days, failing which, the said order shall stand automatically cancelled. The petitioner has not surrendered before the Judicial Magistrate within the time fixed by this Court. If really he is having any difficulty to surrender before the Judicial Magistrate within the time stipulated by this Court, he should have filed a petition before expiry of the time fixed by this Court and get extension of time, but he has not followed the said procedure. After allowing the earlier petition for dismissal by efflux of time, he has filed second petition seeking anticipatory bail stating that due to his ill-health, he could not comply with the order passed by this court within the time fixed by this court. Along with this petition, he enclosed a copy of the medical certificate in which it is stated that the petitioner is suffering from certain ailments. Further, in paragraph No.8 of the petition, he has stated as follows:-

''The petitioner has got highest regard and respect towards the Court and sincerely apologise before this Hon'ble Court and undertakes to comply with the conditions onerously and he will not seek any further extension of time and he is ready and willing to comply with the conditions that may be stipulated by this Hon'ble Court.''

8. Taking into consideration of all the aforesaid facts, 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, within a period of fifteen days from the date of receipt of a copy of this order, before the learned XVII Metropolitan Magistrate, Saidapet, Chennai, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(i) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation;

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v) 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]**.

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
24/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.XVII, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VADAPALANI POLICE STATION,
CHENNAI

+2 CC to M/S.R.PRABHAKARAN Advocate on payment of necessary
charges SR.NO. 13690

CRL OP.18543/2018

Date :24/07/2018

RD 26/07/2018