



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

Thursday, the Fifth day of April Two Thousand Eighteen

WEB COPY

PRESENT

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

CRL MP (MD) No.1442 of 2018

IN

CRL OP (MD) No.1924 of 2017

THE STTE REP.BY,
THE INSPECTOR OF POLICE,
RADHAPURAM POLICE STATION,
TIRUNELVELI DISTRICT.

... PETITIONER/RESPONDENT

Vs

B.BASKAR @ BASKARAN

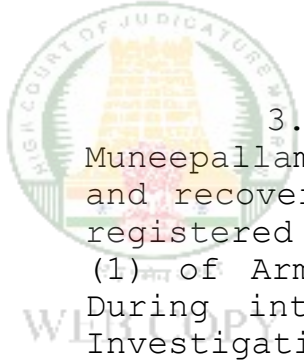
... RESPONDENT/ACCUSED

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the Anticipatory Bail order granted by this Honourable Court in Crl.OP(MD)No. 1924/2017 dated 27.02.2017 on the file of this Honourable Court

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.ASHOKAN, Government Advocate(Crl.Side) for the petitioner and of M/S.P.SENTHURPANDIAN, Advocate on behalf of the Respondent, the court made the following order:-

This Civil Miscellaneous Petition has been filed, to cancel the anticipatory bail order granted by this Court in Crl.O.P(MD) No.1924 of 2017, dated 27.02.2017.

2.Mr.M.Ashokan, the learned Government Advocate (crl.side) appearing for the Petitioner / State would submit that on 26.08.2007, one Kakkuperumal Nadar went to his land and he noticed that one half-burnt dead body of male was found in southern side of his land in an unidentifiable state. Immediately, he lodged a complaint before the Radhapuram Police Station and a case was registered in Crime No.129 of 2007, under Section 174 of Cr.P.C. Since the efforts were taken to trace out the deceased, motive and accused during the course of investigation and ended in vain, the Police dropped the action and filed the referred final report as undetectable, before the learned Judicial Magistrate, Valliyoor and R.C.S.No.3312 of 2009 was assigned on 16.11.2009.



3. On 19.02.2010, at about 5.00 hrs at Araikulam Junction, Muneepallam Police, arrested the respondent / accused and two others and recovered country made pistol, bombs and knives and a case was registered in Crime No.48 of 2010, under Sections 15(1)(B)(a) and 27(1) of Arms Act, 1959 and 5(a) of IES Act, r/w. 120(B) of IPC. During interrogation, the accused gave a confession before the Investigating Officer stating that 2-1/2 years ago he took a person from Chennai to Singarathoppu Village, Radhapuram and murdered him along with his associates. In pursuance of criminal conspiracy, one accused S.S.Singh Nadar and other accused committed the murder of the said person and burnt the body. On the basis, the case was reopened on 27.07.2010.

4. Continuing further, the learned Government Advocate would submit that the respondent / accused has involved in another Crime No.40 of 2018, for the offence under Section 302 IPCA., on the file of Integral Coach Factory Police, Chennai. The offence related to the Crime is 302 IPC and later altered into one under Sections 302, 336, 427 and 506(ii) of IPC. On investigation it reveals that the deceased viz., J.K.Pudhiyavan, who suspects to be having knowledge about the occurrence in respect of Crime No.129 of 2007 of Radhapuram Police Station. The respondent / accused viz., Baskaran was enlarged on anticipatory bail. In order to unearth the identify of the deceased, motive and manner of occurrence and the respondent / accused failed to co-operate the investigation by shunning facts with regard to the heinous brutal and inhuman murder, it is necessary to cancel the anticipatory bail already granted by this court.

5. Mr.P.Senthur Pandian, the learned counsel appearing for the respondent / accused would submit that the respondent is complying with the conditions imposed, as per the order of this Court, dated 27.02.2017, while granting anticipatory bail. After obtaining anticipatory bail, he appeared before the concerned Police for enquiry and a special team also enquired the respondent / accused on many times and the respondent / accused fully co-operating with the investigating team and he has not violated any conditions imposed by this Court. It is his further submission that no supervening circumstances have surfaced nor shown justifying cancellation of anticipatory bail and therefore, prayed for dismissal of this petition for cancellation of anticipatory bail.

6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. Admittedly, the case was registered on the basis of the written complaint given by one Kakkuperumal Nadar on 26.08.2007, in Crime No.129 of 2007, under Section 174 of Cr.P.C., on seeing a half-burned dead body of a male found on the southern side of his land at Singarathoppu Village in a position of unidentifiable state, by the Radhapuram Police Station. All the efforts were taken to trace out the deceased, motive and the accused during the



investigation, which ended in vain and hence, the action was dropped and filed a referred final report as undetectable, before the learned Judicial Magistrate, Valliyoor, who accepted and treated the case and assailed RCS.No.3212 of 2009 on 16.11.2009.

8. It is further stated by the learned Government Advocate (crl.side) appearing for the petitioner that the above case was reopened now, on the basis of a case registered in Crime No.48 of 2010, under Sections 15(1)(B)(a) and 27(1) of Arms Act, 1959 and 5(a) of IES Act, r/w. 120(B) of IPC., by the Muneepallam Police Station in which, the respondent herein was arrested on 19.02.2010 and he gave confession before the Investigating Officer that 2-1/2 years ago, he took a person from Chennai to Singarathoppu Village, Radhapuram and murdered him along with his associates and set fire upon the body and they absconded from the scene let the body in partly burnt stage.

9. It is further contended that the respondent has involved in another criminal case in Crime No.40 of 2018, registered by ICF Police Station, Chennai, under Section 307 IPC., and latter altered into one under Section 302, 336, 427 and 502(ii) of IPC., in which, the deceased viz., J.K.Pudhiyavan, who suspects to be having knowledge about the occurrence in respect of Crime No.129 of 2007 of Radhapuram Police Station, has been summoned and appeared before the Radhapuram Police Station for investigation and after knowing this the respondent herein murdered the said Pudhiyavan on 10.02.2018 at Villivakkam, Chennai and was arrested on 10.02.2018 in Crime NO.40 of 2018 and still he is in prison at Puzhlal.

10. The respondent, who was arrayed as an accused in Crime No.129 of 2007, on the file of the Radhapuram Police apprehends arrest at the hand of the police for the alleged offence punishable under Section 302 IPC., filed CrI.O.P(MD)No.1924 of 2017 before this Court, seeking anticipatory bail and he was ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Valliyoor, within 15 days from the date on which the copy of the order made ready and on condition that he shall appear before the concerned police daily at 10.30 a.m., until further orders, as per the orders of this Court dated 27.02.2017.

11. On perusal of the order of anticipatory bail granted in favour of the respondent herein it is stated that the respondent has impleaded in Crime No.129 of 2007, as per the confession given by one accused viz. Sam Sundar Singh @ S.S.Singh Nadar, who was arrested in Crime No.229 of 2015, on the file of Kalakkad Police Station, as per the contentions and submissions made by the learned Government Advocate (crl.side) appearing in the said anticipatory bail application. Considering the above facts and also no other connecting evidence is against the accused, this Court grants anticipatory bail on conditions. The learned Government Advocate (crl.side) has not stated about the registration of Criminal case in Crime No.40 of 2010, by the Muneepallam Police Station, against the respondent herein.



12. The learned Government Advocate (crl.side) filed this application seeking cancellation of anticipatory bail granted in favour of the respondent in CrI.O.P(MD)No.924 of 2017 by this Court in its order, dated 27.02.2017, on the ground mainly that this is the peculiar case in which, the identity of the deceased, motive, and manner of the occurrence are to be unearthed and the respondent fails to co-operate the investigation agency with due process of investigation by shunning the facts with regard to heinous brutal and inhuman murder.

13. The learned Government Advocate (crl.side) has also admitted that the respondent is complying with the conditions imposed by this Court, as per the order of this Court, dated 27.02.2017, while granting anticipatory bail. The respondent also stated in the counter statement that after obtaining anticipatory bail he appeared before the concerned Police for enquiry and a special team also enquired the respondent / accused on many times and the respondent / accused fully co-operating with the investigating team and he has not violated any conditions imposed by this Court. The above facts is also not denied by the petitioner herein.

14. Admittedly, there are eight accused in this case and the respondent is arrayed as A2. Nothing is mentioned about the other accused in this case. The respondent is shown as accused in Crime No.129 of 2007 in which fresh investigation was ordered as per order, dated 01.02.2017 in CrI.M.P.No.525 of 2017 of Sessions Judge, Tirunelveli, as stated by the Government Advocate (crl.side), who appeared in the said anticipatory bail application and investigation is still pending. Respondent was arrested on 10.02.2018 in Crime No.40/2018, on the file of ICF Police Station, Chennai and now he is in custody at Central Prison, Puzhlal, Chennai. There is no material to show that the respondent violates the conditions stipulated in the anticipatory bail order. The petitioner also has not produced any material or stated any acceptable reasons for cancellation of anticipatory bail granted by this Court. This Court also does not find any valid reasons for cancellation of the anticipatory bail granted against the respondent herein.

15. Hence, considering the above facts and circumstances of the case and also there is no valid reasons assigned by the petitioner herein, this petition to cancel the anticipatory bail, shall stand dismissed.

sd/-

05/04/2018

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



TO

1 THE JUDICIAL MAGISTRATE, VALLIYOOR,
TIRUNELVELI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE,
RADHAPURAM POLICE STATION, TIRUNELVELI DISTRICT

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

ORDER

IN

CRL MP (MD) No.1442 of 2018

IN

CRL OP (MD) No.1924 of 2017

Date :05/04/2018

PK/PN/SAR-2/10.04.2018 : 5P/5C