



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

Friday, the Ninth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.1152 of 2018

RUTHUVAN

... PETITIONER / ACCUSED NO.3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
OTTANCHATRAM POLICE STATION,
DINDIGUL DISTRICT.
IN CRIME NO.722 OF 2017

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.V.KATHIRVELU, Senior Counsel for
M/S.R.JEGADEESWARAN Advocate

For Respondent : M/S.A.ROBINSON, Govt. Advocate (Crl. Side)

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

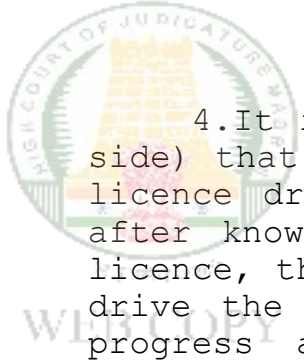
ORDER : The Court Made the following order :-

Reserved on : 06.02.2018
Delivered on : 09.02.2018

The petitioner, who is arrayed as Accused No.3, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 279, 337, 304(A) @ 279, 337, 304 (A) r/w. 304 (ii) r/w. 34, 109 IPC, in Crime No.722 of 2017 and hence, seeks anticipatory bail.

2.The case of the prosecution is that on 31.12.2017 at 2.15 p.m., when one Sundaramoorthy, S/o.Perumal was driving the bus bearing Registration No.TN-57-N-1867 in Dindigul to Ottanchathriam Road, the first accused drove the bus belonging to the petitioner/A3 bearing Registration No.TN-63-S-8677 towards west to east and dashed against the Government bus, in which, 12 persons died and 15 persons sustained injuries.

3.The learned Senior Counsel appearing for the petitioner submitted that the petitioner herein is not the owner of the bus. The petitioner is an innocent person, he has not committed any offence and he has been falsely implicated in this case and prays for anticipatory bail in favour of the petitioner.



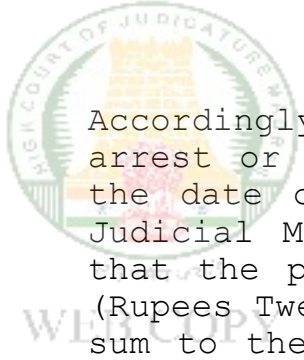
4.It is submitted by the learned Government Advocate (Criminal side) that one Pandiyarajan/A1, who is not having any valid driving licence drove the bus negligently and caused the accident. Even after knowing that the said Pandiyarajan is not having any valid licence, the petitioner being the owner of the bus, permitted him to drive the bus. He further submitted that the investigation is in progress and therefore, prayed for dismissal of the Criminal Original Petition.

5.The submissions made by either side are considered. It is alleged by the prosecution that during the time of accident, one Pandiyarajan, who is not having any valid driving licence, drove the bus negligently and caused the accident. The allegation levelled by the respondent police is, even after knowing that the said Pandiyarajan is not having any effective driving licence, the petitioner being the owner of the bus permitted him to drive the bus. Immediately, after the commission of offence, this case has been registered for the offences punishable under Sections 279, 337 and 304(A) IPC. Thereafter, the said Pandiyarajan surrendered before the concerned Judicial Magistrate Court and was let off on bail. Now, it is to be noted that at the time of accident, many persons died on the spot itself. Even after knowing the said fact, the Investigating Officer has registered the case for the abovesaid provisions of law, only to support the accused, who involved in the commission of offence.

6.According to the case of the petitioner, he is not the owner of the bus which met with the accident. On the other hand, according to the prosecution, the petitioner viz., Ruthuvan made an agreement with one Sivamani and run the bus at the time of accident. So, it is necessary to know the fact that who is the owner of the bus at the time of accident. As per the Motor Vehicle Inspector's Report, the owner of the bus is Sivamani. Furthermore, the alleged bus, which involved in the accident was produced before the Motor Vehicle Inspector after a lapse of 29 days from the date of accident. But, on the other hand, the bus, which belongs to the State Transport Corporation was produced before the Motor Vehicle Inspector immediately within a short span from the date of accident.

7.In the above situation, now only, the respondent police has altered the charge for the offences under Sections 279, 337, 304(A) r/w. 304(ii) r/w.34 and 109 IPC. So, the manner of altering the charge itself shows that the Investigating Officer is not having any fundamental knowledge of investigation. At the initial stage itself, without application of mind, he registered the case of the offences bailable in nature. Now, only after granting bail to the main culprit, he altered the charge and trying to arrest the person, who is not having any registered name for the vehicle concerned.

8.So, considering the abovesaid facts and circumstance of the case, this Court with great anguish is inclined to grant anticipatory bail to the petitioner, with certain conditions.



Accordingly, he 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 Judicial Magistrate, Ottanchatram, Dindigul District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 condition that:

(i) the petitioner shall report before the respondent Police daily at 10.00 a.m. until further orders.

(ii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioner shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and 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 petitioners 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/-
09/02/2018

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

TO

1. THE JUDICIAL MAGISTRATE, OTTANCHATHIRAM,
DINDIGUL DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
3. THE INSPECTOR OF POLICE,
OTTANCHATRAM POLICE STATION, DINDIGUL DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.JEGADEESWARAN Advocate SR.No.2197

ORDER IN
CRL OP(MD) No.1152 of 2018
Date :09/02/2018