



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.2085 of 2018

1 SAMUTHIRAPANDI
2 MARIAPPAN

... PETITIONERS / ACCUSED 1 & 2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KARIVALAMVANDHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
IN CR.NO. 53/2018

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.R.AMARNATH Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused Nos.1 and 2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 342, 323, 307 and 506(ii) of IPC, in Crime No.53 of 2018, seek anticipatory bail.

2.The case of the prosecution is that due to previous motive, the petitioners along with three other accused waylaid the defacto complainant and assaulted him by using Aruval and thereby, the defacto complainant has sustained injury. Hence, the defacto complainant has lodged a complaint before the respondent police.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and did not commit any offence as alleged by the prosecution and their names have been falsely implicated in this case.

4.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the first petitioner / A1 is having three previous cases and the investigation is not yet completed. He would further submit that the injured person was discharged from the hospital.



5. The submissions made by the learned counsel on either side are considered. It is alleged that during the time of occurrence, the petitioners herein along with some other accused waylaid the defacto complainant and assaulted him by using Aruval and thereby, the defacto complainant sustained injury. As of now, the person, who sustained injury, was discharged from the hospital.

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6. In the above circumstances, even though this case has been registered for the offence under Section 307 of IPC, considering the nature of injury sustained by the defacto complainant, this Court is of the view that the custodial interrogation of the second petitioner / A2 is not necessary. Hence, this Court is inclined to grant anticipatory bail to the second petitioner/A2, with certain conditions. Accordingly, the second petitioner / A2 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, Sankarankovil, on condition that the second petitioner / A2 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 second petitioner / A2, shall report before the respondent police, daily at 10.00 a.m. until further orders;
- (ii) the second petitioner / A2, shall not tamper with evidence or witness either during investigation or trial.
- (iii) the second petitioner / A2, shall not abscond either during investigation or trial.
- (iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the second petitioner / A2, shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 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].

According to the submissions of the learned Government Advocate (Crl . Side), the first petitioner / A1 is having three previous cases. The number of cases pending against the first petitioner / A1 shows that he is a habitual offender and hence, if that type of accused is released on bail, then there may be a chance for tampering the witnesses and hampering the investigation. In such



circumstances, this Court is not inclined to grant anticipatory bail to the first petitioner / A1 and accordingly, the Criminal Original Petition is dismissed as against the first petitioner / A1.

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, SANKARANKOVIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KARIVALAMVANDHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.2085 of 2018
Date :09/02/2018

MKV-RR-CSL-SAR 3/15.2.2018/3P-5C