



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

Thursday, the Twenty Second day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.2262 of 2018

CHARLIN M

... PETITIONER / ACCUSED NO.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
SOUTH THAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.
CR.NO.37 OF 2016

... RESPONDENT / COMPLAINANT

For Petitioner :M/S.R.MURALI Advocate

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

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

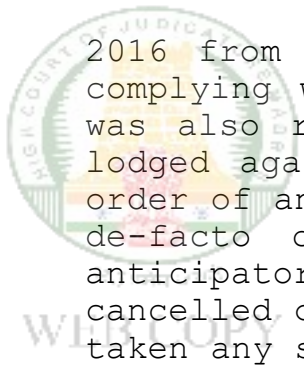
Reserved on : 16.02.2018

Delivered on : 22.02.2018

The petitioner/Accused No.1, who surrendered before the learned Judicial Magistrate Court, Nanguneri, and remanded to judicial custody on 24.01.2018 for the offences punishable under Sections 294 (b) and 307 IPC, in Crime No.37 of 2016, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 29.01.2016, the petitioner threatened the de-facto complainant's mother with sickle and caused injuries to her, which resulted in registration of the present case.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. He further submitted that the de-facto complainant's sister was working with A2 as a Staff in a Real Estate Office and swindled money. When A2 questioned the same, the sister of the de-facto complainant assaulted the petitioner as well as A2 through Henchmen and in this regard, previous complaint in Crime No.23 of 2015 is also pending before the Munnirpallam Police Station, Tirunelveli. He further submitted that the petitioner is the driver of A2 and obtained anticipatory bail for the present Crime No.37 of

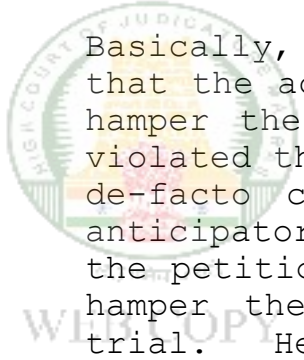


2016 from this Court on 15.06.2016 itself and the petitioner was complying with the conditions regularly and subsequently, the same was also relaxed. Due to vengeance, another false complaint was lodged against the petitioner and the petitioner has also got an order of anticipatory bail from this Court in 2017. Thereafter, the de-facto complainant approached this Court for cancellation of anticipatory bail, which was granted on 15.06.2016 and the same was cancelled on 01.08.2017. Thereafter, the respondent police have not taken any steps to arrest the petitioner, since there is no truth in the offence. To avoid complications, the petitioner himself surrendered before the learned Judicial Magistrate Court, Nanguneri, on 24.01.2018 and now he is in judicial custody.

4.The learned Government Advocate (Criminal side) appearing for the respondent submitted that the petitioner is the prime accused and already this Court cancelled the anticipatory bail granted to him and if he is let out on bail, there is every possibility for tampering the witnesses/evidence and hampering the investigation.

5.The submissions made by the learned counsel on either side are considered. It is alleged that during the time of occurrence, three deserted women, who are living separately have been humiliated and subjected to cruelty by the accused and even after granting anticipatory bail, the petitioner has once again attempted to hurt the de-facto complainant and her sister with iron rod and has used abusive languages and damaged the reputation of a woman by posting her profile in the Facebook. Initially, on 15.06.2016 itself, the petitioner was granted with anticipatory bail and complying with the conditions properly. Thereafter, another one complaint was registered against the same petitioner herein, in which, the petitioner also got anticipatory bail. After registration of the second case, the de-facto complainant approached this Court for cancellation of anticipatory bail which was granted on 15.06.2016. After elaborate enquiry, the prayer sought by the de-facto complainant was given to her by means of cancelling the anticipatory bail granted in favour of the petitioner on 15.06.2016. Subsequent to the cancellation of anticipatory bail, the petitioner surrendered before the learned Judicial Magistrate, Nanguneri, on 24.01.2018 and subsequently, he filed an application before the Court of Sessions and the same was dismissed by mentioning the reason that the anticipatory bail already granted in favour of the petitioner was cancelled by this Court.

6.Now, according to the statement made by the learned counsel appearing for the petitioner, the petitioner is an innocent and he is in judicial custody from 24.01.2018 onwards. On the other hand, as per the case of prosecution, so far, trial has not been completed. Now, on going through the orders passed by this Court in the application filed by the de-facto complainant for cancellation of anticipatory bail, it would reveal the fact that subsequent to obtaining an order of anticipatory bail, the petitioner herein is trying to tamper the witness by means of using filthy language and made threatening by means of iron rod. Apart from that, he damaged the reputation of a woman by posting her profile in the Facebook.



Basically, a common condition for all anticipatory bail orders is that the accused himself shall not commit the offence and shall not hamper the investigation. Accordingly, the petitioner herein has violated the condition imposed by this Court and thereupon only, the de-facto complainant has filed the petition for cancellation of anticipatory bail granted to the petitioner. So, if this type of the petitioner is released on bail, he may tamper the witnesses and hamper the investigation, since the case is under the stage of trial. Hence, this Court is not inclined to grant bail to the petitioner.

Accordingly, this Criminal Original Petition is dismissed.

sd/-

22/02/2018

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

TO

- 1 THE INSPECTOR OF POLICE,
SOUTH THAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.MURALI Advocate SR.No.2909

ORDER

IN

CRL OP(MD) No.2262 of 2018

Date :22/02/2018

MKV-CM-SAR 4/23.2.2018/3P-5C