



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

Wednesday, the Twenty First day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.4474 of 2018

1 ARUMUGAM
2 BALAN @ BALASUBRAMANIAN
3 MAHARAJAN
4 NALLAKANNU
5 MAHARAJA
6 ARUMUGAM
7 MANI

... PETITIONERS / ACCUSED NO.1 TO 7

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
MORAPPANADU POLICE STATION,
THOOTHUKUDI DISTRICT,
IN CR.NO. 38/2018

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.M.PRABU Advocate

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

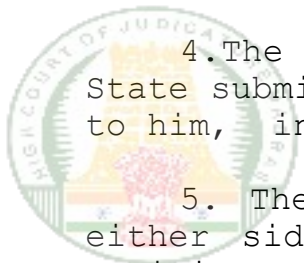
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/A1 to A7, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 147, 148, 294(b), 353, 506(ii), 379 and 307 I.P.C., in Crime No.38 of 2018, seek anticipatory bail.

2.The case of the prosecution is that on 16.03.2018, the petitioners herein had illegally transported the river sand by using the Tempo, when the same was questioned by the defacto complainant, who is the Sub Inspector of Police, the petitioners herein tried to assault the defacto complainant by using the spade and also abused him with filthy language. Hence, a case has been registered for the above said offences.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, they have not committed any offence as alleged by the prosecution. Further added that they have been falsely implicated in this case. Hence, he prays for anticipatory bail to the petitioners.



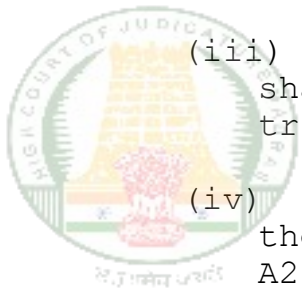
4. The learned Government Advocate (Crl.side) appearing for the State submitted that no one sustained injury in this case. According to him, investigation is still pending.

5. The submissions made by the learned counsel appearing on either side are considered. It is alleged, during the time, the petitioners are stealing the river sand, the defacto complainant, who is the Sub Inspector of Police questioned the petitioners, for which, the petitioners herein are attempted to assault the defacto complainant and other police officers, who were assembled in the occurrence place. However, the learned Government Advocate (Crl.Side) appearing for the State fairly conceded that no body sustained injury in the alleged occurrence. In the above circumstances, the respondent police has registered a case against the petitioners for the offence under Section 307 I.P.C., So, the reason for registering the case under Section 307 I.P.C., is best known to the defacto complainant only. Hence, considering the facts and circumstances of the case, custodial interrogation of the petitioners may not be necessary for completing the investigation. However, as per submissions made by the learned Government Advocate (Crl.Side) appearing for the State that the first petitioner is having 16 previous cases and the third petitioner is having 4 previous cases. So, the number of previous cases pending against the first and third petitioners, shows that they are the habitual offenders. If this type of petitioners are released on anticipatory bail, they may tamper the witness and hamper the investigation. Therefore, for the reasons stated above, in respect of first and third petitioners are concerned, this Court is not inclined to grant anticipatory bail. Accordingly, the Criminal Original Petition is dismissed in respect of the first and third petitioners.

6. Having regard to the other petitioners (A2, A4, A5, A6 and A7) in this case, this Court is inclined to grant anticipatory bail, with certain conditions. Accordingly, the petitioners/ A2, A4, A5, A6 and A7 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Srivaikundam, on condition that the petitioners/ A2, A4, A5, A6 and A7 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 petitioners/ A2, A4, A5, A6 and A7 shall report before the Seevalaperi Police daily, Tirunelveli District daily at 10.00 a.m. until further orders.

(ii) the the petitioners/ A2, A4, A5, A6 and A7 shall not tamper with evidence or witness either during investigation or trial.



(iii) the the petitioners/ A2, A4, A5, A6 and A7 shall not abscond either during investigation or trial.

(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioners/ A2, A4, A5, A6 and A7 shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners/ A2, A4, A5, A6 and A7 in accordance with law as if the conditions have been imposed and the petitioners/ A2, A4, A5, A6 and A7 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/-
21/03/2018

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, SRIVAICKUNDAM
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
 - 3 THE INSPECTOR OF POLICE
MORAPPANADU POLICE STATION, THOOTHUKUDI DISTRICT.
 - 4 THE INSPECTOR OF POLICE,
SEEVALAPERI POLICE STATION, TIRUNELVELI DISTRICT
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.M.PRABU Advocate SR.No.4508

ORDER
IN
CRL OP(MD) No.4474 of 2018
Date :21/03/2018

MKV-PN-SAR 1/23.3.2018/3P-7C