



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

Monday, the Ninth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP (MD) No.5248 of 2018

1 V.P.M. SANKARANARAYANAN
2 THANGA PRABHU
3 RAMANATHAN
4 RAVI

... PETITIONERS/ ACCUSED -1 TO 4

Vs

1 STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR SUB DIVISION,
VIRUDHUNAGAR DISTRICT.

2 STATE REP.BY
THE INSPECTOR OF POLICE
SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT,
IN CR.NO. 128/2018

...RESPONDENTS/COMPLAINANTS

3 SRINIVASAGAM ... RESPONDENT/DEFACTO COMPLAINANT

For Petitioners :MR.N.R.ELANGO SENIOR COUNSEL FOR
MR.S.RAVI Advocate

For Respondent : MR.A.P.G.OHM CHAIRMA PRABHU,
Government Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners/ accused Nos.1 to 4 apprehend arrest at the hands of the respondents police for the offences punishable under Sections 294(b), 120(b), 307 r/w. 109 of Indian Penal code and Section 3(1)(r)(s), (3)(2)(va) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act in Crime No.128 of 2018 and seek anticipatory bail.

2 Heard the learned Government Advocate(Crl Side) appearing for the respondents.



3.The *de facto* complainant in this case is one Seenivasagam. The substance of the First Information Report is that on 08.03.2018, at about 09:30 P.M., When the defacto complainant was in his auto stand, he was attacked by three unknown accused. He was inflicted with injuries using aruval. It is further alleged that the said unnamed accused had threatened the *de facto* complainant that he should not have anything to do with their boss. It is the suspicion of the *de facto* complainant that the petitioners herein had set up those attackers. In the First Information Report, the *de facto* complainant himself had suggested that there is a previous enmity between the petitioners herein and himself.

4.Heard the learned Senior Counsel appearing the petitioners.

5.The learned Senior Counsel would rely upon that the Judgment of the Hon'ble Supreme Court in Crl.A.No.416 of 2018, dated 20th March 2018, wherein, the Hon'ble Supreme Court had held that there is no absolute bar against the grant of anticipatory bail in any cases under the Atrocities Act, if no *prima facie* case is made out or where on judicial scrutiny, the complaint is found to be *prima facie mala fide*. The learned Senior counsel would further point out that even though the Central Government had applied for review of judgment, no interim order had been passed. In any event, review has been sought only in respect of clauses 3 to 5 of the said judgment. Therefore, he would submit that this application for grant of Anticipatory Bail is very much maintainable.

6.The learned Senior counsel would further point out that the second petitioner herein, the son of the first petitioner, filed W.P.(MD).No.22890 of 2015, before this Court for removal of encroachment. The *de facto* complainant is figuring as Respondent No.5. This Court, by order dated 09.06.2017, had allowed the said Writ Petition, directing the authorities to remove the said encroachment. Subsequently, proceedings under Section 145 Cr.P.C were also initiated by the Revenue Divisional Officer, Sivakasi and orders were passed on 05.03.2018. The petitioners are figuring as 'A' party, while the defacto complainant is figuring as Serial No.1 in the 'B' party list.

7.This Court therefore finds considerable force in the submissions of the learned Senior counsel appearing for the petitioners. When the petitioners had already obtained relief from the Revenue Department, there was no need for them to take law in their own hands. The *mala fides* are demonstrated by the fact



that though the defacto complainant had suffered only simple injuries, he chose to remain in the hospital for a period of 16 days. He was admitted on 08.03.2018 and got discharged on 16.03.2018. When the petitioners herein moved this Court by filing a petition under Section 482 Cr.P.C, the *de facto* complainant got himself re-admitted and got discharged after the said Criminal Original petition was disposed of by the Court. This clearly demonstrates that the complaint in question is *mala fide* in nature. The petitioners herein were admittedly not present in the occurrence spot. They are sought to be implicated only based on suspicion. There is no material for the same. It is, however, made clear that that this observation is made only for the purpose of anticipatory bail and the same cannot be taken advantage of by the petitioners, if they seek to move any application for quashing the First Information Report later in point of time.

8.Considering the facts and circumstances of the case, this court is inclined to grant Anticipatory Bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.II, Srivilliputhur and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C. scrupulously.

9.The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy is made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
09/04/2018

/ TRUE COPY /

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

TSG
TO



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR

3 THE DEPUTY SUPERINTENDENT OF POLICE,
SRIVILLIPUTHUR SUB DIVISION, VIRUDHUNAGAR DISTRICT.

4 THE INSPECTOR OF POLICE
SRIVILLIPUTHUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT,

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

+1. CC to M/S.S.RAVI Advocate SR.No.5676

GJM/RR/CSL/SAR-4-16.4.18-4P-7C

ORDER
IN
CRL OP(MD) No.5248 of 2018
Date :09/04/2018