



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

Monday, the Fifth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.17001 of 2017

MARIMUTHU

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE SUB INSPECTOR OF POLICE
SANKARANKOVIL TOWN POLICE STATION,
TIRUNELVELI DISTRICT
CR NO. 317/2017.

... RESPONDENT / COMPLAINANT

For Petitioner : MR.V.KATHIRVELU, Senior Counsel for
M/S.S.MUNIYANDI Advocate

For Respondent : MR.A.ROBINSON Govt. Advocate (Crl. Side)

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

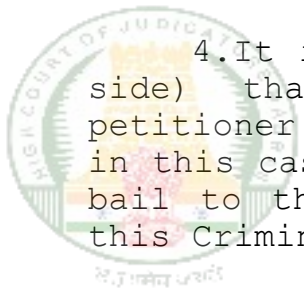
ORDER : The Court Made the following order :-

Reserved on : 30.01.2018
Delivered on : 05.02.2018

The petitioner, who is arrayed as Sole Accused, apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 420 IPC, in Crime No.317 of 2017 and hence, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is running an Institute in the name and style of American Paramedical College. The Joint Director of Health Service, Tenkasi, Tirunelveli District, during surprise visit, found that the said Institute was running without permission. Hence, he sent a report to the respondent police. Based on the same, a case has been registered against the petitioner for the offence under Section 420 IPC.

3.It is submitted by the learned Senior Counsel for the petitioner that the petitioner is running the said Institute with the permission of the Central Government under the Scheme of Bharat Sevak Samaj (BSS) from 2008 onwards. The de-facto complainant seized documents relating to the approval of the said Institute and therefore, custodial interrogation is not necessary for completing investigation in this case. Accordingly, he prays for anticipatory bail in favour of the petitioner.



4.It is submitted by the learned Government Advocate (Criminal side) that investigation is going on and therefore, enlarging the petitioner on bail is not conducive for completing the investigation in this case and it is not a fit case for the grant of anticipatory bail to the petitioner and therefore, he prayed for dismissal of this Criminal Original Petition.

5.The submissions made by the learned counsel on either side are considered. It is alleged that during the time of occurrence, the petitioner herein was running an Institute without any approval, in which, he has given training for Diploma in Nursing Assistant, Diploma in Hospital Nursing and Midwifery, Diploma in Medical Laboratory Technology and Diploma in Medical Radiography Technician. According to the submissions made by the learned Senior Counsel appearing for the petitioner, only after getting approval from the National Council for Vocational and Research Training, New Delhi, the abovesaid courses were conducted by the petitioner. As a result of which, certificates were also furnished to the students, for those who studied in the respective courses. On the other hand, as per the submissions made by the learned Government Advocate (Criminal side), the approval of the Tamil Nadu Government is necessary for running the courses as mentioned above, for which, he relied on G.O.Ms.No.300, Health and Family Welfare (PME) Department, dated 01.11.2001. Now, on considering the approval given by Bharat Sevak Samaj (BSS), National Development Agency, Promoted by Government of India, the petitioner is authorised to run the abovesaid Institute.

6.In the above circumstances, it is relevant to consider the order passed by the Principal Seat of this Court in W.P.No.16556 of 2014, dated 13.04.2015 [Tamil Nadu Nurses and Midwives Council Rep. by its Registrar Vs. The Secretary, Bharath Sevak Samaj BSS Programme Office, Chennai and 3 others], wherein it has been held as follows:

''7.Taking note of the above facts and also the order passed by the Karnataka High Court against the respondents 1 and 2, the 4th respondent is bound to take appropriate action against such institutions which do not have approval for conducting nursing or midwives courses from the petitioner's council. In this regard, the petitioner is directed to submit a representation to the 4th respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such representation being received, the 4th respondent shall take note of the representation and take appropriate legal action forthwith to prevent such institutions which do not have proper approval from the competent authority including the petitioner and also sensitize the public in this regard so that the innocent students should not be put to peril. The Government, the fourth respondent shall take



appropriate action in this regard within a period of four weeks from the date of such representation being made.''

7. So, according to the judgment rendered by the Principal Seat of this Court, the approval of Tamil Nadu Government is necessary for running an Institution as run by the petitioner. However, as of now, the Institute, which was run by the petitioner was closed, for which, the petitioner herein gave a statement before the respondent police during the time of enquiry conducted by the respondent.

8. All those aspects would clearly prove the petitioner is in the habit of obeying the order passed by the de-facto complainant, only because of that, he closed the Institution run by him. However, the fees which were collected for the past three years from the students, who are all studied in the Institute are not recovered. Therefore, custodial interrogation of the petitioner is necessary for completing investigation in this case. Hence, this Criminal Original Petition is not having any merit and same is liable to be dismissed.

Accordingly, this Criminal Original Petition is dismissed.

sd/-
05/02/2018

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

TO

1 THE SUB INSPECTOR OF POLICE
SANKARANKOVIL TOWN POLICE STATION,
TIRUNELVELI DISTRICT.

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

+2. CC to M/S.S.MUNIYANDI Advocate SR.Nos.1918 & 1985

ORDER
IN
CRL OP(MD) No.17001 of 2017
Date :05/02/2018

MKV-CM-VR-SAR 2/9.2.2018/3P-5C