



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

Wednesday, the Third day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.17023 of 2017

RAJESH

... PETITIONER / ACCUSED No.5

Vs

THE STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID, THENI, THENI DISTRICT ,
CRIME NO.4/2017

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.S.MUNIYANDI Advocate

For Respondent : Mr.K.S.DURAI PANDIAN , Additional Public Prosecutor

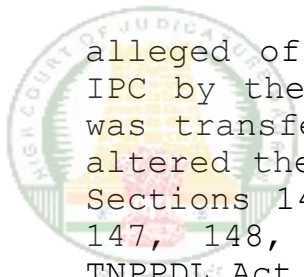
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

Heard both sides.

2. The petitioner is arrayed as A-5 in Crime No.4 of 2017 of the Deputy Superintendent of Police, CBCID, Theni District. He apprehends arrest at the hands of the respondent police for the alleged offences under Sections 147, 148, 448, 379(NP), 294(b), 506 (i) IPC altered 120(b), 147, 148, 448, 379(NP), 294(b), 506(ii) IPC and Section 3(1) of TNPPDL Act, he has filed this petition, seeking grant of anticipatory bail.

3. The case of the prosecution is that the first accused is the owner of the building. The defacto complainant is running a lorry office at the building belongs to the defacto complainant. There is some dispute between the first accused and the defacto complainant regarding eviction. Therefore, the defacto complainant filed a suit before the learned District Munsif, Theni in O.S.No.76 of 2017. On 02.10.2017, the defact complainant went to Madurai for taking treatment for his wife. For which, the lorry office was handed over to his brother, namely Kanagavel. Thereafter, the accused persons were broke open the lock and thereby they were taken away the household articles worth about Rs.3,00,000/- Moreover, they were taken away a sum of Rs.20,000/- and 18 ½ sovereigns from the building. On such circumstances, the brother of the defacto complainant questioned the same and thereby the first accused threatened him with dire consequences. Therefore, he lodged the report and the same was registered in Crime No.919 of 2017 for



alleged offences under Section 147, 148, 448, 379, 294(b), 506(i) IPC by the Inspector of Police, Theni Police Station and the same was transferred to the respondent police and the respondent police altered the FIR in Crime No.4 of 2017 for the alleged offences under Sections 147, 148, 448, 379(NP), 294(b), 506(i) IPC altered 120(b), 147, 148, 448, 379(NP), 294(b), 506(i) IPC and Section 3(1) of TNPPDL Act.

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4. The learned counsel appearing for the petitioner submitted that the petitioner is a practising Advocate before the Theni District Court and Magistrate Court and he has not committed any offence as alleged, he is in no way connected with the offences, and pleads for grant of anticipatory bail to the petitioner. He further submitted that in this case, co-accused has already been released on bail.

5. The learned Additional Public Prosecutor submitted that the petitioner's first anticipatory bail application in Crime No.919 of 2017 before this Court in CrI.O.P.(MD)No.14617 of 2017 was ordered on 24.11.2017. Now, the case was transferred to the respondent police and the respondent police altered the FIR in Crime No.4 of 2017. Hence, the second Anticipatory bail application is filed.

6. Considering the submissions on either side, it appears that the offence u/s 147, 148, 448, 379(NP), 294(b), 506(i) IPC altered 120(b), 147, 148, 448, 379(NP), 294(b), 506(ii) IPC and Section 3(1) of TNPPDL Act has been registered in Crime No.4 of 2017 against the petitioner. As per the earlier order passed in CrI.O.P(MD)No.14617 of 2017, dated 24.11.2017, the accused was granted anticipatory bail and thereafter, the investigating agency has been changed.

7. Taking all the above said aspects into consideration, and having regard to the nature of offence, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:-

(i) The petitioner is granted anticipatory bail in the event of his arrest or on his surrender before Judicial Magistrate, Theni, on or before 17.01.2018, failing which, the petition shall stand dismissed automatically.

(ii) On such arrest or surrender, the petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- with two sureties for a like sum each to the satisfaction of the Judicial Magistrate, Theni.

(iii) **The petitioner is directed to appear before the Judicial Magistrate, Theni for a period of 10 days and thereafter, the petitioner shall appear before the respondent / police as and when required.**

(iv) The petitioner shall make himself available for interrogation as and when required by the investigation officer.

(v) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled, and the learned Magistrate / Trial Court is



entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
03/01/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE,
THENI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI
- 3 THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID, THENI, THENI DISTRICT ,
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. CC to MR.S.MUNIYANDI Advocate SR.No.58

JAM/05/01/2018/CM-VR/ SAR 4/ 3P-6C

ORDER
IN
CRL OP(MD) No.17023 of 2017
Date :03/01/2018