



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

Wednesday, the Sixteenth day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

CRL OP (MD) No.7631 of 2018

RAMESH

... PETITIONER/SOLE ACCUSED

Vs

THE STATE THROUGH,
THE INSPECTOR OF POLICE
KANDAVARAYANPATTI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.20 of 2018

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.P.AJU TAGORE, Advocate

For Respondent : M/S.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 :-

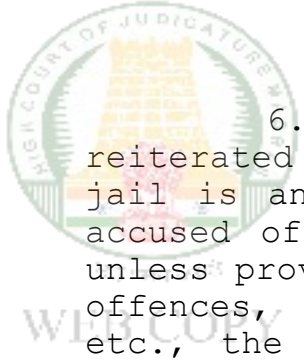
The petitioner apprehends arrest at the hands of the respondent police for the alleged offences under Section 294(b), 324 and 506(ii) of IPC in Crime No.20 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the accused scolded the defacto complainant in a filthy language and attacked the defacto complainant and his father and made life threaten.

3.The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case.

4.Learned Government Advocate (Crl.side) submitted that the investigation is still pending.

5.It would not be out of place to mention here that the trial Courts have, of late, lost in insight of two cardinal principles of criminal jurisprudence, while dealing with an application for grant of bail or anticipatory bail.



6. Though the Honourable Supreme Court has time and again reiterated these cardinal principles, namely, "bail is the rule and jail is an exception" as well as all the principle that "persons accused of having committed a crime are presumed to be innocent, unless proved guilty", it is heartening to note that even in petty offences, matrimonial disputes, criminal and commercial disputes, etc., the police have been invoking their powers vested to them during the pre-independence era and seeking for remand of these persons. Likewise, the jurisdictional trial Courts have also been mechanically remanding such persons, overlooking these cardinal principles. It is needless to point out that when complaints are received for commission of heinous crime or offences which may have bearing on the society at large, or habitual offenders, etc., the Police Officers are at liberty to seek for judicial custody of the persons involved in such crimes and the Magistrate may also be justified in remanding them.

7. It is no doubt true that grant of bail or anticipatory bail is a discretion vested with the jurisdictional Courts and such a discretion will not be usually questioned. Nevertheless, such a discretion requires to be exercised judiciously and cautiously. It is common knowledge that the persons, who are alleged to have been involved for offences under Sections 294(b) and 506(i) of IPC and other petty offences are being produced by the Investigating Officer before the jurisdictional Magistrate for remanding them and most of the time, such an action is taken even on the same day, on which the complaint is received and the FIR is registered. Likewise, matrimonial disputes, civil disputes and other commercial disputes are being veiled with a criminal colour and indiscriminate arrests are being made.

8. In view of the aforesaid well established cardinal principles, it would be appropriate that the Investigating Officer as well as the trial Court reappraise themselves about these cardinal principles and cautiously refrain from remanding the persons involved. The averments made in a complaint may not be of such a serious nature, which might require arrest of the accused, unless and until, the Investigating Officer comes to the conclusion that such an arrest is imminent and absolutely necessary.

9. Considering the facts and circumstances of the case, this Court is inclined to grant the relief of anticipatory bail to the petitioner.

10. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Magistrate concerned within a period of 10 days from the date of receipt of a copy of this order, on his 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 Judicial Magistrate, Thirupathur, or to the satisfaction of the respondent police or the police officer who intends to arrest and on further condition that



the petitioner shall appear before the respondent police daily at 10.30 a.m for two weeks and thereafter, as and when required for interrogation.

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sd/-
16/05/2018

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
THIRUPATHUR, SIVAGANGAI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT
- 3 THE INSPECTOR OF POLICE
KANDAVARAYANPATTI POLICE STATION,
SIVAGANGAI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.SABBANIKARBURA JOTHI, Advocate SR.No.8485

ORDER
IN
CRL OP(MD) No.7631 of 2018
Date :16/05/2018

PK/RR/VK/18.05.2018 : 3P/6C