



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

Wednesday, the Nineteenth day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22063 of 2018

RAJA @ RAJKUMAR

... PETITIONER / ACCUSED NO.3

Vs

THE INSPECTOR OF POLICE,
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.396/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.R.ANBARASU, Advocate

For Respondent : MR.S.CHANDRASEKAR,
ADDITIONAL PUBLIC PROSECUTOR.

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 341, 294(b), 323, 307 and 506(ii) IPC., altered into Section 302 of IPC., in Crime No.396 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that on 29.09.2018, due to previous enmity, the son of the defacto complainant, while returning to home, from the work, at that time, A1 to A5, along with unknown accused attacked him with wooden log and iron rod on his head and all over the body. Immediately, the injured was taken to the Government Medical College Hospital, Kanyakumari, where he died on 31.09.2018.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. Further, the co-accused A1 and A4 had already been granted bail and A2 was granted anticipatory bail, by the District Court, Nagercoil. He would further submit that the petitioner is a college going student and prayed for the relief of anticipatory bail in favour of the petitioner. The learned counsel



in support of his contention, has relied on a decision of Hon'ble Apex Court in **Kamaljit Singh Vs. State of Punjab and Another** reported in **(2005 (7) SCC 226)**.

4. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that on 29.09.2018, due to previous enmity, the accused in this case attacked the son of the defacto complainant with wooden log and iron rod. Immediately, the injured was taken to the Government Medical College Hospital, Kanyakumari, wherein he died on 31.09.2018. Therefore, he strongly opposes to grant anticipatory bail to the petitioner.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6. Considering the above facts and circumstances of the case and on perusal of the materials it is found that the fatal injury on the head of the deceased had been caused by A1, who had been granted bail, and the specific overt act against the petitioner is that he had assaulted the deceased with hands and the investigation is almost in this case, this Court is inclined to grant bail to the petitioner with certain conditions:

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.II, Nagercoil, on condition that the petitioner shall execute 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;

[a] if the petitioner failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent police on every Saturday and Sunday at 10.00 a.m., for a period of two weeks, and thereafter, as and when required, for interrogation

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, 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]**.



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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sd/-
19/12/2018

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
NAGERCOIL.
- 2 DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE,
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.R.ANBARASU Advocate SR.No.23580

ORDER
IN
CRL OP(MD) No.22063 of 2018
Date :19/12/2018

AMS/PN-AC/S-1/26.12.2018/3P/6C