



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

Thursday, the Twenty Sixth day of July Two Thousand Eighteen

WEB COPY

PRESENT

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

CRL MP (MD) No.5862 of 2018

IN

CRL OP (MD) No.8155 of 2018

T.MEENAKUMARI

... PETITIONER/DEFACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE,
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
IN CR NO. 318 OF 2015

... RESPONDENT/COMPLAINANT

2 VIJAYAKUMAR

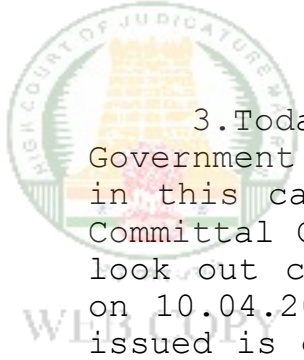
... RESPONDENT/PETITIONER/
ACCUSED No.6

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the anticipatory bail granted to the 2nd respondent by this Honourable Court in Crl.OP(MD)NO. 8155/2018 dated 16.05.2018

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.S.MANICKAM, Advocate for the petitioner and of MR.A.ROBINSON, Government Advocate (Crl.Side) on behalf of the 1st Respondent, and MR.P.ANDIRAJ, Advocate for 2nd Respondent, the court made the following order:-

The petitioner in this Criminal Miscellaneous Petition is the *de facto* complainant in Crime No.318 of 2015 for the offences under Sections 147, 148, 149, 302 @ 120 (b), 109 and 302 I.P.C. on the file of the Inspector of Police, Kenikkarai Police Station, Ramanathapuram District.

2.The respondent herein viz., Vijayakumar, son of Sundarajan, was shown as the sixth accused in the said case. He filed Crl.O.P. (MD).No.8155 of 2018, before this Court and this Court had granted anticipatory bail on 16.05.2018. Before this Court, a representation was made that the investigation was still going on and this Court had granted relief of anticipatory bail to the petitioner.



3.Today, when the matter was taken up for hearing, the learned Government counsel (Crl. side) submitted that final report was filed in this case on 07.07.2016 and the case has been taken up by the Committal Court in P.R.C.No.32 of 2016. It is also submitted that a look out circular has been issued against Vijayakumar / petitioner on 10.04.2018. The person against whom look out circular has been issued is obviously not entitled to seek the relief of anticipatory bail.

4.The learned counsel appearing for the petitioner submitted that the Hon'ble Supreme Court in the decision reported in **(2014) 1 MLJ (Crl) 89 (SC) - (State of Madhya Pradesh vs. Pradeep Sharma)** held that a person who has been declared as absconder is not entitled to anticipatory bail. The very same reasoning will apply in the present case also.

5.Therefore, it is thus seen that the grant of anticipatory bail in favour of Vijayakumar was vitiated as these relevant facts which were not taken into account. It is reiterated that a wrong submission was made by the prosecution that investigation is still going on. It has now been admitted that this a wrong statement. Charge sheet was filed as early as on 07.07.2016 and the matter is pending at P.R.C.No.32 of 2016, on the file of the Judicial Magistrate No.II, Ramanathapuram. The second circumstance is the pendency of look out circular against the petitioner that was issued on 10.04.2018. As already submitted a person against whom look out circular has been issued cannot invoke the jurisdiction available under Section 438 of Cr.P.C. Since both these aspects were not brought to the notice of this Court, anticipatory bail granted to the petitioner by this Court on 16.05.2018 in Crl.O.P.(MD).No.8155 of 2018 stands cancelled.

6.This Criminal Miscellaneous Petition is allowed accordingly.

sd/-
26/07/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,
RAMNAD, RAMANATHAPURAM DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT



3 THE INSPECTOR OF POLICE,
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1. C.C. to MR.R.ARAVINDRAJ, Advocate SR.No.14270

ORDER IN
CRL MP (MD) No.5862 of 2018
IN
CRL OP (MD) No.8155 of 2018
Date :26/07/2018

PK/RR/SAR-4/03.08.2018 : 3P/6C