



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

Tuesday, the Eighteenth day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22309 of 2018

SENTHIL KUMAR

... PETITIONER / ACCUSED NO.1

Vs

STATE REP.BY ITS,
THE INSPECTOR OF POLICE
NITHIRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
IN CR NO. 299 OF 2015

... RESPONDENT / COMPLAINANT

For Petitioner : MR.A.THIRUVADI KUMAR Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner/Accused No.1, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 3(1) of TNPPDL Act, 1992 in Crime No.299 of 2015, seeks anticipatory bail.

2. The case of the petitioner is that he has been working in Indian Army, posted in the State of Jammu and Kashmir. During the year 2015, there seems to be a dispute a Driver of the State Transport Corporation bus with regard to overtaking his scooter in rash and negligent manner, thereby a wordy quarrel arose. Due to which, the above incident is said to have taken place. Thereafter, the petitioner was granted anticipatory bail in the above crime number and thereby, he was attending the case regularly from the year 2015 onwards. On completion of investigation, charge-sheet has been filed in S.C.No.110 of 2016, which is pending trial on the file of the Principal District and Sessions Judge, Kanyakumari District, Nagercoil. Since the petitioner is posted in Indian Army that too in a troubled State, no leave was granted to attend the trial. Hence, the learned Trial Judge had cancelled the sureties and non-bailable warrant was issued against him, on 19.04.2017, due to his non-appearance.



3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence. Hence, he prayed for anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that on 19.04.2017, non-bailable warrant was issued against the petitioner due to his non-appearance before the trial court.

5. Considering the above submissions, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions;

6. 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, Kuzhithurai on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two fresh sureties each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Kanyakumari District at Nagercoil in S.C.No.110 of 2016 and on further condition that;

[a] if the petitioner fails 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 concerned trial court on all hearing dates.

[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] The petitioner shall co-operate with the trial either personally or through his counsel;

[f] 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.

sd/-
18/12/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO II
KUZHITHURAI, KANIYAKUMARI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANIYAKUMARI DISTRICT AT NAGERCOIL

3 THE INSPECTOR OF POLICE
NITHIRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1. CC to MR.A.THIRUVADI KUMAR Advocate SR.No.23533

ORDER

IN

CRL OP(MD) No.22309 of 2018

Date :18/12/2018

MSI/PN-AC/SAR-III/20.12.2018-3P/6C