



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

Wednesday, the Thirtieth day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.126 of 2019

1 MAHADEV ANAND MORE

2 BHIMA RAO

... PETITIONERS / ACCUSED RANK NOT KNOWN

Vs

THE STATE REP.BY ITS
THE INSPECTOR OF POLICE,
SUBRAMANIAPURAM POLICE STATION,
MADURAI CITY.

(IN CRIME NO. 471 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.T.BALARATHINAKUMAR Advocate

For Respondent : Mr.S.CHANDRA SEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

(Reserved on 28.01.2019)

The petitioners / A4 & A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 @ 379, 411, 414 and 120(b) of IPC., in Crime No.471 of 2018, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that based on the complaint of the defacto complainant stating that on 07.07.2018 at 6.25 p.m., some unknown persons snatched her 10 sovereigns gold chain, when she returned back to her home by walk, from her daughter's house, a case in Crime No.471 of 2018, has been registered, initially against the unknown persons, under Section 379 IPC. On investigation, the respondent Police arrested the accused.

3. The learned counsel appearing for the petitioners would submit that the petitioners are running bullion business viz., 'Sangam Gold Bullian Trader', having office at Anandham Complex, South Aavani Moola Street, Madurai, doing business turnover more than 8 Crores per month and they have been paying Rs.20,00,000/- GST per month. Due to business rivalry, the petitioners have been falsely implicated in this case, in order to weed them out from the



business, since the gold business has been carried on by a particular group of people, who had become fear of the petitioners' growth in the business that the petitioners would make inroad into their business. He would further submit that on 25.12.2018, at about 1.30 hrs one person in the Police Uniform and others in the Mufti, claiming that the person in the Uniform is the Inspector of Police, S.S.Colony Police Station, Madurai and questioned the first petitioner's son for some time and was forcibly taken him from the house by the Police personnel. Thereafter, the first petitioner's daughter-in-law had filed a Habeas Corpus Petition in HCP No.1828 of 2018 before this Court, on 26.12.2018. When the HCP taken up for hearing on 27.12.2018, Police given an information that the first petitioner's son was arrested in Crime No.1048 of 2018, on the file of Subramaniapuram Police Station, Madurai. Subsequently, he was released on bail. Thereafter, in the above case, the petitioner was arrayed as accused.

4. It is his further contention that the family members of the petitioners had filed a complaint before the learned Judicial Magistrate No.6, Madurai, for abducting the first petitioner's son, in violation of the Supreme Court guidelines and Law and keeping him in illegal custody. The learned Judicial Magistrate No.6, issued a search warrant under Section 97 Cr.P.C.,, directing the Head Clerk, to find out whether the first petitioner's son was kept illegal detention at S.S.Colony Police Station. On the intimation by the Magistrate, the Inspector of Police, S.S.Colony, appeared before the learned Judicial Magistrate No.6, Madurai, on 25.12.2018 and explained and denied all the allegations made against him and after recording the statement that he has not abducted the first petitioner's son into custody, the complaint was closed.

5. The learned Government Advocate (crl.side) appearing for the State would submit that the petitioner's son conspired and induced A1 / Ravi @ Ravichandran, planned to commit robbery, theft and house breaking in Anna Nagar, S.S.colony and Thallakulam, with an intention to execute the above said conspiracy all the accused committed the offence. The petitioners herein are habitual offenders and they are still absconding and their custodial interrogation is necessary for recovering the robbed jewels.

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

7. The main allegation against the petitioners is that they received the stolen jewels and concealment of the same. It is submitted that the stolen jewels in this case has been recovered.

8. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners subject to certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the



learned Judicial Magistrate No.IV, Madurai, on condition that petitioners shall execute each 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 petitioners failed to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, as and when required, for interrogation, on receipt of summons.

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

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

30/01/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO-IV, MADURAI.

2 THE CHIEF JUDICIAL MAGISTRATE, MADURAI.

3 THE INSPECTOR OF POLICE
SUBRAMANIAPURAM POLICE STATION, MADURAI CITY.

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

+1. CC to MR.T.BALARATHINAKUMAR Advocate SR.No.1810

PS/JC/SAR-3/05.02.2019/3P/6C

ORDER

IN

CRL OP(MD) No.126 of 2019

Date :30/01/2019