



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

Friday, the First day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.587 of 2019

MUTHUVEL @ MUTHUKRISHNAN

... PETITIONER / ACCUSED- A9

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBCID, OCU, TRICHY.
CRIME NO.1 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.A.R.L.SUNDARASAN, Senior Counsel for
M/S.AL. GANDHIMATHI, Advocate

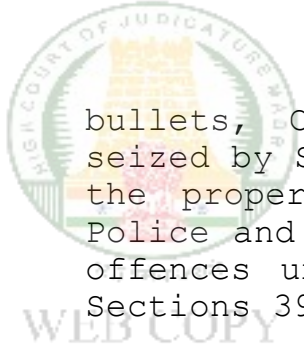
For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner / A9, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 25(1-A) and 25(1-B)(a) of Arms Act, 1959 r/w Sections 399 and 402 of IPC., in Crime No.1 of 2018, seeks anticipatory bail.

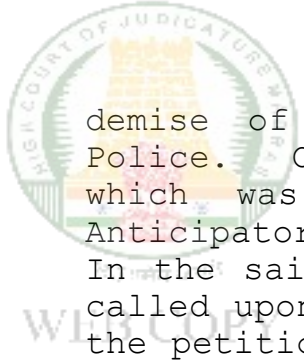
2. The case of the prosecution is that on 26.01.2018 at 22.00 hrs., the Inspector of Police, OCIU (Organized Crime Intelligence Unit) had received an intelligence source that a gang was trying to sell Pistols and Bullets in Trichy. Based on the information, he along with his party searched near Kalpana Hotel. Based on the information, a suspect viz., one Parameswaran / A1, was enquired near Kalpana Hotel, Central Bus Stand. While searching his black shoulder bag, it was found 7.65 mm Pistol and 7.65 mm Bullets 5 numbers, without proper licence or Government Order. On enquiry, he stated that he was accompanied with one Nagaraj and Siva and they were staying in Room No.43 of Kalpana Hotel. A search was conducted in the room and found Nagaraj and Siva and recovered another 7.65 mm pistol and bullets 5 numbers from him. On enquiry, it is found that they were planning to sell the same in the black market, if not they planned to commit decoity along with his associates. Further, it came to know that two other persons, on seeing the Police, had escaped from the Hotel Room. The Pistols,



bullets, Cellphone, Shoulder Bag and other articles found were seized by Seizure Mahazar. All the accused were produced along with the properties through the Special Report before the Cantonment Police and the case was registered in Crime No.156 of 2018, for the offences under Sections 25(1-A), 25(1-B) (a) of Arms Act, 1959 r/w Sections 399 and 402 of IPC.

3. Thereafter, in view of seriousness of the offences, the case was transferred to the present respondent, as per the order, dated 04.02.2018, of the Director General of Police, Tamil Nadu, the case was transferred to the present respondent. On 05.2.2018, the respondent Police filed an affidavit before the learned Judicial Magistrate No.VI, Trichy, for taking Police custody of the accused. The accused given confession that they were receiving pistols from one Krishna Murari Diwari of Bina, Madhya Pradesh. A special team was formed and they proceeded to Bina Madhya Pradesh and arrested the said Krishna Murari Tiwari, on 11.02.2018. Thereafter, he was remanded before the learned Judicial Magistrate No.VI, Trichy, on 14.02.2018 and was taken Police custody on 19.02.2018 and recorded his confession. He confessed that he has sold 11 Pistols and 90 Bullets to Ettappan and Kalaisekar. A1 / Parameswaran in his confession, had confessed that he has got 4 Pistols and 30 Bullets from Madhyapradesh through Ettappan on 13.01.2018 and of which he sold two Pistols and Bullets to the petitioner / A9, in January 2018, through one real estate broker for Rs.2,20,000/-. On prior intimation to the jurisdictional Court on 08.02.2018 the petitioner's house was searched and thereafter, the accused was summoned several times for enquiry but he had not appeared before the Investigating Officer. On 23.10.2018, a summon under Section 160(1) and 91 Cr.P.C., was served to the petitioner, for enquiry, on 29.10.2018. But the petitioner did not appear before the Investigating Officer and sent an intimation that he is unable to appear. It is submitted that other than the confession of A1, there are other materials available against this petitioner. Only on custodial interrogation, the remaining Pistols and Bullets are to be recovered from the petitioner. In the meanwhile, he has filed the above petition before this Court, for seeking anticipatory bail. Further it is found that the petitioner / accused is doing real estate business and a politically influenced person and is not co-operating for investigation and avoiding to appear for enquiry. The remaining two pistols and two bullets are to be seized from the petitioner / accused.

4. The learned counsel appearing for the petitioner would submit that the petitioner is doing real estate business for the past 20 years and during the course of business, the 1st accused had introduced himself as Stephen in the year 2013 and approached the petitioner with some proposals for real estate business. The petitioner came to know the real name of the 1st accused only through Media, after his arrest in the alleged complaint. He would further submit that the petitioner received summons from the respondent Police to appear for enquiry on 26.10.2018 and on that day, due to



demise of his relative, he could appear before the respondent Police. Only after the complaint and arrest of the 1st accused, which was published in the media, the petitioner filed an Anticipatory Bail in Crl.O.P(MD)No.20569 of 2018 before this Court. In the said petition, by way of interim order, the petitioner was called upon for enquiry before the respondent police. Accordingly, the petitioner appeared before the respondent on 20.11.2018 and has co-operated with the investigation. Subsequently, on 30.11.2018, when the said anticipatory bail petition came up for hearing, this Court after recording the submissions of the counsel appearing for the respondent that the petitioner had not appeared before the respondent for investigation on 23.10.2018 and 29.10.2018, dismissed the petition. The fact that the petitioner appeared before the respondent Police on 20.11.2018 was not brought to the notice of this Court and during the search, the respondent has recovered nothing from the petitioner's residence and his relative. He also submitted that Section 24(1-A) of the Arms Act, is not attracted and the phone call particulars is not of much significance, since the petitioner has been having contact with A1 in connection with real estate business. Therefore, he prayed for anticipatory bail in favour of the petitioner.

5. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondent, reiterating the averments made in the counter would submit that the petitioner / accused is doing real estate business and a politically influenced person and is not co-operating for investigation and avoiding to appear for enquiry. The petitioner appeared on 20.11.2018, except for his physical presence, nothing worthwhile happened. The remaining two pistols and twenty bullets are to be seized from the petitioner / accused. He strongly opposes for grant of anticipatory bail to the petitioner, since custodial interrogation of the petitioner is necessary to recover the Pistols and Bullets.

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

7. Admittedly, this Court, on 30.11.2018, had dismissed the anticipatory bail application filed by the petitioner, by taking note of the submission of the learned Government Advocate that A1 had sold 2 Pistols and 20 Bullets to the petitioner through one Aravind. Further, A1 is known to the petitioner as Stephen from 2013 and the real name of A1 as Parameswaran came to be known to the petitioner through Media after A1's arrest, creates serious doubt, on the other hand, they are in constant touch with each other, as could be seen from the call records. In this case, pistols have to be recovered, which is in the exclusive knowledge of the petitioner and as rightly contended by the Government Advocate that the custodial interrogation of the petitioner is necessary to recover the pistol and bullets. Other than this, there are other materials available against the petitioner. The earlier anticipatory bail application was dismissed only on 30.11.2018 and this is the second



anticipatory bail application and there is no substantial change of circumstances to grant anticipatory bail to the petitioner. Hence, the relief of anticipatory bail is refused and this Criminal Original Petition stands dismissed.

sd/-

01/02/2019

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

TO

1. THE INSPECTOR OF POLICE
CBCID, OCU, TRICHY.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.587 of 2019

Date :01/02/2019

MS/PN/SAR-1/07.02.2019/4P.3C