



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.719 of 2019

1 DEEPA

2 DHANABAKIYAM

... PETITIONERS / ACCUSED 25 & 26

Vs

STATE REP.BY

THE INSPECTOR OF POLICE,

MELUR POLICE STATION,

MADURAI DISTRICT.

(CRIME NO.782/2018)

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.R.GANDHI, 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 :-

[Reserved on **30.01.2019**]

The petitioners / A25 to A26, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 397 and 120(b) of IPC., and Section 25(1)(b) of Arms Act, 1959, in Crime No.782 of 2018, on the file of the respondent Police, seek anticipatory bail. The first petitioner is wife of A24 and the 2nd petitioner is the paternal aunt.

2. The case of the prosecution is that on 06.12.2018, at about 7.40 a.m., after the defacto complainant's husband, who is a doctor by profession, who had left the house, six persons, well dressed, covering their face, armed with deadly weapons and a pistol, had made a force entry into the house, keeping the maid and watchman of the defacto complainant under threat of life with the weapons and they had forced the petitioner to hand over phones, jewels and the cash and thereafter, they have went and searched the house and had taken the cash available in the house, totally a sum of Rs.75,00,000/- and 4-3/4 sovereigns of gold jewels, mobile phone and escaped from the scene of occurrence. Thereafter, on the registration of the case, with the aid of CCTV camera footages, it came to know that six persons had entered into the house and the



other accused in conspiracy and in tandem with the act of each other had stood as guard and after dacoity, they escaped from the scene of occurrence.

3. The learned counsel appearing for the petitioners would submit that the first petitioner/ A25 is none other than the wife of A24/ Kumar, she is not aware of the above offence. She has got two school going children to be taken care of. Apart from handing over the bag containing pistol to the other co-accused and receiving the same and handing over to A25, she had no knowledge about the alleged offence. The contention in respect of 2nd petitioner / A26 is that she had only received the hand bag from A25 and on her request, had kept it near the water tank and she was not aware of the happenings. As a whole, she had no knowledge about the entire happenings and her role is only limited and the conspiracy for the offence had completed and she could not be roped in, on the charges of conspiracy. Therefore, the learned counsel prayed for anticipatory bail in favour of the petitioners.

4. The learned Additional Public Prosecutor appearing for the State had filed a counter detailing the act of each of the accused and the role played. Apart from that, he submitted that except these accused, A1 to A24 have been arrested and some of them had surrendered and all the accused are in custody the entire booty amount has not been recovered. Further, A24 had given a confession admitting the same recoveries were made. These materials were in exclusive knowledge of the accused and further investigation has to be carried on. It is a large scale conspiracy wherein, all the accused have conspired together and in a broad day light had committed the offence of dacoity and their act is one of the diabolic one which had sent shocking waves of fear of life and property.

5. It is his further contention that In course of investigation, on 17.12.2018, A1 and A8 were arrested and from them, an Air-Gun and the Scorpio Car and cash were seized and on their confession, arrested the other accused. A24 in this case is a constable of CRPF, assigned to COBRA and Naxal Striking Group. He was posted during 2010-15 at State of Jharkhand and during the Naxal operation in the year 2013, he had come in possession of Japan made 8 mm Pistol along with two magazines and 8 bullets and during the operation, the members of the team need not account for the ammunition they had taken with them. Using the same, he had retained with him, Under Barrel Grenade Launcher (UBGL), A.K.47 Live Rounds 64, INSAS Live Rounds 12, SLR Empty Gauges 17, AK 47 MJ Magazines and 303 Rounds and these arms and ammunition were in his illegal possession.

6. Further, the husband of the 1st petitioner had handed over the pistol to A25, who had concealed the same in her house at Thirumangalam, Madurai. A24/Kumar was the friend of main accused in this case and he was in constant touch with other accused through



mobile first petitioner was made aware of the illegal act of the accused in committing the deocity and he had abetted and aided the other accused in commission of the offence, by instructing his wife A25 to hand over the pistol to one Ramesh Babu, who is the friend of the first accused, who had actively participated in the commission of the offence had used the above pistol. Thereafter, on completion of the act of offence, the pistol was handed over to the first accused, who had again concealed the same. Thereafter, on coming to know about the investigation and fearing that A24 and A25 would be caught, he had instructed his wife A25 to hand over the pistol to A26 and keep it concealed in her house, who had taken the same and concealed the same in her water tank of the house.

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

8. Considering the above facts and circumstances of the case and the materials produced before this Court, this Court finds that 1st petitioner / A25 was well aware of the offence and she has actively participated and have been part of the conspiracy in commission of the above offence, this Court is not inclined to grant the relief of anticipatory bail to her. Hence, this Criminal Original Petition stands dismissed as regards first petitioner.

9. As regards second petitioner / A26 is concerned, though she had received the pistol and concealed the same, this act is after the commission of the main offence of dacoity, wherein the prime act of the other accused by the time had been accomplished. Considering the same, this Court is inclined to grant anticipatory bail to the second petitioner / A26, with certain conditions.

10. Accordingly, the 2nd petitioner / A26 is ordered to be released on bail in the event of arrest or on her appearance, before the learned Judicial Magistrate, Melur, 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;

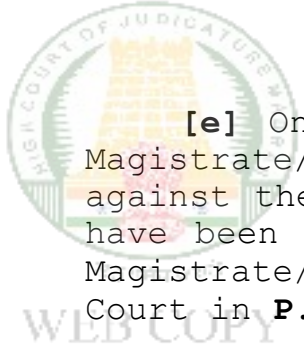
[a] if the 2nd petitioner failed to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the 2nd petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders, for interrogation,

[c] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 2nd petitioner shall not abscond either during investigation or trial.

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[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 accused 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/-

01/02/2019

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

TO

1. THE JUDICIAL MAGISTRATE, MELUR.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
MELUR POLICE STATION, MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.719 of 2019

Date :01/02/2019

MS/PN/SAR-3/07.02.2019/4P.5C