

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Criminal Jurisdiction)

Date : 06/06/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.7256 of 2019

1. Tamil Selvan
2. Christopher

... Petitioners 1 & 2/Accused Nos.1 & 5

Vs

The State Rep.by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari, Kanyakumari District.
Crime No.267/2019.

... Respondent/Complainant

For Petitioners: Mr.S.Balamurugan, Advocate.

For Respondent : Mr.V.Neelankandan,
Govt.Advocate (Crl.Side).

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 294 (b), 379, 427, 452, 506 (ii) of IPC in Crime No. 267 of 2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the first petitioner is working as a driver in the Health Department and the second petitioner is the relative of the first petitioner. He further submitted that even as per the FIR, already several cases were pending between the parties and the defacto complainant informed to the others that he will turn approver in those cases and aggrieved by the same, the petitioners herein went to the house of the defacto complainant and caused damages to the electrical goods and also stolen the amount of RS.1,30,000/- and gold jewels. He further submitted that previous cases are pending only against the accused persons 2 and 3 and not

against these petitioners herein and therefore alleged motive against the petitioners itself is not correct. He further submitted that already A4 surrendered before the learned Judicial Magistrate, Nanguneri on 23.05.2019 and he is in custody. He further submitted that the petitioners herein are in no way connected with the aforesaid case and hence, he prayed for grant of anticipatory bail to the petitioners.

4.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent has submitted that already 20 criminal cases are pending against the accused No.2 and one case is pending against the accused No.3. The defacto complainant is also one of the accused in the said cases and since he informed to the others that he will turn as approver, on 14.05.2019 at 12.20 a.m., the petitioners herein and other accused persons went to the house of the defacto complainant and caused damages to the electrical goods and also stolen an amount of Rs.1,30,000/- and jewels. He further submitted that the investigation is still in pending and hence, she strongly opposed this petition.

5.Taking into consideration of the aforesaid fact that the first petitioner is a driver, who is working in the Health Department and also the fact that the criminal cases are pending against only the accused No.2 & 3 and not against the petitioners herein and also the fact that in the aforesaid cases, the defacto complainant is one of the accused, this Court is inclined to grant interim anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Padmanabhapuram on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

<https://hcservices.ecourts.gov.in/hcservices/> (iv) the petitioners shall not abscond either during investigation or trial.

(v) 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].

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

06/06/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, PADMANABHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE, THUCKALAY POLICE STATION,
KANYAKUMARI, KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.S.BALAMURUGAN Advocate SR.No.9194

ORDER
IN

CRL OP(MD) No.7256 of 2019

Date :06/06/2019

MS/PN/SAR-2/10.06.2019/3P.6C

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