

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

Date : 01/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.8216 of 2019

1. Chellappa,
2. Dinesh,

... Petitioners/Accused Nos.2 & 3

Vs

The State of Tamilnadu rep.by

The Inspector of Police,

Karivalamvantha Nallur Police Station,

Tirunelveli District.

Crime No.107 of 2019.

... Respondent/Complainant

For Petitioners: M/s.C.K.M.Appji,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

For anticipatory bail in cr.no.107 of 2019 on the file of the
respondent police.

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 294
(b), 323, 324, 302, and 506 (ii) of IPC, and Section 4 of Tamilnadu
Prohibition of Harassment of Women Act, 2002, in Crime No. 107 of
2019, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has
submitted that as per the FIR, due to previous enmity between the
petitioners' family and the defacto complainant's family, the
petitioners along with other accused persons were brutally attacked
the defacto complainant's mother and father. He further submitted
that the petitioners are innocent persons and they have not
committed any offence as alleged by the prosecution. He further
submitted that the earlier anticipatory bail application which was
filed by the petitioner in Crl.OP(MD)No.5136 of 2019 was dismissed
as two person died, but actually one person who is aged about 74
years died due to heart disease and not due to the attack made by

the petitioners, and hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent has submitted that the earlier anticipatory bail application, which was filed by the petitioners herein in CrI.OP(MD) No.5136 of 2019, was dismissed by this Court on 04.04.2019, observing that the defacto complainant's mother and father were brutally attacked by the petitioners and others and both of them died. But, he submitted that only the defacto complainant's father namely Balasubramanian died. He also produced xerox copy of the postmortem certificate and also final opinion given by the Doctor, who conducted the postmortem on the body of the said Balasubramanian. He further submitted that the deceased died only due to Coronary artery heart disease and the defacto complainant's mother sustained only simple injuries.

5.The earlier anticipatory bail application which was filed by the petitioners herein in CrI.OP(MD)No.5136 of 2019 was dismissed by this Court on 04.04.2019, observing that the defacto complainants mother and father were brutally attacked by the petitioners and others and both of them died. But, the learned Additional Public Prosecutor has submitted that only the defacto complainant's father namely Balasubramanian died. He also produced a xerox copy of the postmortem certificate and also final opinion given by the Doctor, who conducted the postmortem on the body of the said Balasubramanian. In the postmortem certificate, it is stated that the said Balasubramanian is aged about 74 years old and no external injuries found on his body. Further in the opinion given by the Doctor, who conducted postmortem, it is stated that the deceased died due to the effect of the Coronary artery heart disease. So, it is clear that the deceased not died due to the attack made by the petitioners herein. Further, it is submitted by the learned Additional Public Prosecutor that the defacto complainant's mother sustained only simple injury and she was also discharged from the hospital. It is also submitted that already A1 & A4 were arrested subsequently they were released on bail by this Court vide order passed in CrI.OP(MD)No.6905 of 2019 dated 16.05.2019.

6.Taking into consideration of all the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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 Court, Sankarankovil, on condition that the petitioners 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.

(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/-
01/07/2019

/ TRUE COPY /

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

TO

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

+1 CC to Mr.C.K.M.APPAJI, Advocate (SR-10752[I] dated 01/07/2019)

ORDER
IN
CRL OP(MD) No.8216 of 2019
Date :01/07/2019

dss