



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

Wednesday, the Twenty Third day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.21422 & 21701 of 2018

M.K.MUTHUKUMARAN

... PETITIONER / ACCUSED RANK NOT KNOWN
IN CRL OP9MD)NO. 21422 of 2018

V.PETHIMAHARAJAN

...PETITIONER/ACCUSED NO.1
IN CRL OP9MD)NO. 21701 of 2018

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
UMATCHIKULAM POLICE STATION,
MADURAI DISTRICT.
(CRIME.NO 263 OF 2018)

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : Mr.R.PON KARTHIKEYAN Advocate
IN CRL OP9MD)NO. 21422 of 2018

For Petitioner : Mr.S.MALAIKANI Advocate
IN CRL OP9MD)NO. 21701 of 2018

For Intervenor : Not apperance IN CRL OP9MD)NO. 21701 of 2018

For Respondent : Mr.S.CNANDRASEKAR,Additional Public Prosecutor
IN BOTH PETITIONS

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 420, 294(b) & 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.263 of 2018, seek anticipatory bail.

2.The case of the prosecution is that the petitioner in CrI.O.P.(MD) No.21701 of 2018 is A1 and the petitioner in CrI.O.P.(MD) No.21422 of 2018 is A2 in Crime No.263 of 2018. When the case was called for hearing, though the name of the *de facto* complainant was printed, he failed to appear. Hence, after hearing the arguments of the petitioner, case was passed over and taken after lunch. The petitioner was directed to inform the *de facto* complainant's counsel

to be present for hearing and it is submitted by the petitioner that the *de facto* complainant was informed and despite the same, he is not present now before this Court.

3. The petitioner /A1 is the son of Veeranan Ambalam who is the brother-in-law of the *de facto* complainant Jayasudha. The case of the prosecution is that the *de facto* complainant Jayasudha is the wife of Pethivel. Both the petitioner/A-1, who is the brother of Pethivel and the *de facto* complainant inherited the family properties from Veeranan.

4. During the life time of Veeranan, he has settled the properties measuring five acres of land each respectively to his sons. Of his share, Pethivel has sold 2.60 acres of land to his relative, who is the wife of Veeranan, (i.e.,) mother of A-1/ petitioner, Chinnayee. The *de facto* complainant and her husband have sold their share of five acres of land and left to Chennai and invested the same in their business. Meanwhile, in the year 2001, the said Pethivel died and business had also ended up in loss and thereafter, the *de facto* complainant had returned back to the village. It is further submitted that Chinnayee had executed Power of Attorney in favour of A2/ M.K.Muthukumaran for the 2.60 acres of land which was settled to her by her husband Late.Veeranan.

5. The case of the prosecution is that the *de facto* complainant/ wife of Pethivel stated that the property was settled to Chinnayee in which she has got her right and suppressing the same, Chinnayee has given power to A2 and using the same, A2 has mortgaged the said property and created encumbrance for which the *de facto* complainant sent a legal notice not only to the petitioners herein, as well as to the legal heirs of Veeranan. Admittedly, the said Chinnayee had given the registered Power of Attorney in Document No.2843 of 2016 which is registered in Sub Registrar Office, Tallakulam. The said Chinnayee has not so far questioned the issuance of Power of Attorney and the Power of Attorney is in force.

6. Taking into consideration the facts of the case and the submissions by learned counsels, this Court is inclined to grant anticipatory bail to the petitioners.

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 No.V, Madurai, on condition that the petitioners shall execute 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 said Magistrate, on further conditions that:

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.



[b] the petitioners shall report before the respondent police as and when required for interrogation.

[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]**.

[g] If the accused / petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
23/01/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO-V,
MADURAI.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE
UMATCHIKULAM POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.R.PON KARTHIKEYAN Advocate SR.No.1239
+1. CC to MR.S.MALAIKANI Advocate SR.No.1238

PS/JC/SAR-3/05.02.2019/3P/7C

ORDER
IN
CRL OP(MD) Nos.21422 & 21701 of 2018
Date :23/01/2019