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

Date : 23/07/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.9734 of 2019

M.Vairamuthu ... Petitioner/Accused
Rank Not Known

Vs

State Represented by,
The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar District.
Crime No. 160 of 2019. ... Respondent/Complainant

For Petitioner : M/s.C.Mayilvahana Rajendran,
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 Crime No.160 of 2019 on the file of the Respondent Police

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b) and 302 of IPC in crime No.160 of 2019, seeks anticipatory bail.

2.Heard both sides.

3.The learned counsel for the petitioner has submitted that the name of the petitioner has not been found place in the FIR. He further submitted that as per the FIR only two persons committed offence and only based on the confession said to have been given by

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A1, the petitioner herein has been implicated in the above case. He further submitted that the petitioner is a close friend of the deceased. He further submitted that already a dispute is there between the petitioner and A1 and with regard to the same, the petitioner already lodged a complaint against A1 before the respondent police and on the said complaint an enquiry was conducted and subsequently it was closed and as such A1 would have implicated the petitioner falsely. He further submitted that even as per the confession statement of A1, the only role played by the petitioner is that he has identified the place of the deceased and apart from that no other allegation has been made against the petitioner and for the said allegation, the custodial interrogation is absolutely not necessary and therefore, he prayed to grant anticipatory bail to the petitioner.

4.Per contra, the learned Additional Public Prosecutor has submitted that even though in the FIR, the petitioner's name has not been mentioned, after registering the case, during the investigation A1 was arrested and he gave a confession statement voluntarily stating that the petitioner herein also involved in the above crime and only based on the same, the petitioner herein has been arrayed as accused. He further submitted that the petitioner has not lodged any complaint against A1 as contended by the learned counsel for the petitioner and the said contention has been made only for the purpose of getting anticipatory bail. He further submitted that for investigation purpose the custodial interrogation of the petitioner is absolutely necessary and therefore, he strongly opposed this petition.

5.Since the learned counsel for the petitioner has submitted that the petitioner has lodged a complaint against A1 before the respondent police and after enquiry, the said complaint was closed, the respondent was directed to produce the said file. The respondent police has stated that no such complaint has been lodged by the petitioner. On the contrary, the respondent police has registered a case against the petitioner under Sections 41 (1) (a) @ 109 Cr.P.C., in Crime No.271 of 2016 on 30.09.2016, and another case was registered against the petitioner and three others under Sections 341, 294(b), 323, 342 and 506(ii) of IPC, in crime No.73 of 2018 and a third case in Crime No.228 of 2018 under Sections 294(b), 302 and 448 of IPC against the petitioner herein and two others. The respondent has also produced the Case Diary files of the aforesaid cases. A perusal of the aforesaid CD files would show that already three cases registered against the petitioner including one murder case. Further, the petitioner has not produced any material to show that he already lodged a complaint against A1 and therefore the contention of the petitioner that due to previous enmity, A1 has falsely implicated him in the present case cannot be accepted.

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6.In the confession statement said to have been recorded from the accused No.1, it is stated that the petitioner herein instigated the other accused persons to murder the deceased and handed over the knives to the accused No.1 and he only pointed out the place where the deceased was present and only based on the said confession, according to the learned Additional Public Prosecutor, the petitioner herein has been arrayed as accused.

7.Taking into consideration the aforesaid facts and also the fact that already three cases pending against the petitioner including one case under Section 302 of IPC and also the submission made by the learned Additional Public prosecutor that the custodial interrogation of the petitioner is absolutely necessary. Hence, this Court is not inclined to grant anticipatory bail to the petitioner.

8.Accordingly, this criminal original petition is dismissed.

sd/-
23/07/2019

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

TO

1.THE INSPECTOR OF POLICE
THIRUCHULI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

2.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9734 of 2019
Date :23/07/2019

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PK/JC/SAR-4/08.08.2019 : 3P/3C

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