



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). Nos.10119, 10120, 10122 & 10129 of 2019

Mohammed Annas,

... Petitioner/Accused No.3
(In all Crl.OP(MDs))

Vs

The state of Tamilnadu, Rep by
The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
Crime No. 152/19.

... Respondent/Complainant
(In Crl.OP(MD))No.10119 of 2019)

The state of Tamilnadu, Rep by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
Crime No.455/2019

... Respondent/Complainant
(In Crl.OP(MD))No.10120 of 2019)

The state of Tamilnadu, Rep by
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
Crime No. 156/19.

... Respondent/Complainant
(In Crl.OP(MD))No.10122 of 2019)

The state of Tamilnadu, Rep by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
Crime No.424/2018

... Respondent/Complainant
(In Crl.OP(MD))No.10129 of 2019)



For Petitioner : M/s.R.Russel Raj,
Advocate.
(In all CrI.OP(MDs))

For Respondent : Ms.M.Anantha Devi,
Government Advocate (CrI.Side)
(In all CrI.OP(MDs))

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C (In all CrI.OP(MDs))

PRAYER In CrI.OP(MD))No.10119 of 2019):-

For Anticipatory Bail In Crime No. 152 of 2019 on the file of the Respondent Police.

PRAYER In CrI.OP(MD))No.10120 of 2019):-

For Anticipatory Bail In Crime No. 455 of 2019 on the file of the Respondent Police.

PRAYER In CrI.OP(MD))No.10122 of 2019):-

For Anticipatory Bail In Crime No. 156 of 2019 on the file of the Respondent Police.

PRAYER In CrI.OP(MD))No.10129 of 2019):-

For Anticipatory Bail In Crime No. 424 of 2019 on the file of the Respondent Police.

COMMON ORDER : The Court Made the following order :-

When these petitions cameup for hearing on 22.07.2019, the learned counsel for the petitioner has submitted that the petitioner is an unsound mind person and considering the same, the learned Principal District Munsif cum Judicial Magistrate, Eraniel, has granted bail in Crime No.65 of 2019 on the file of the Colachel Police Station and hence, he request to grant anticipatory bail to the petitioner in the above cases. He also produced a copy of the order passed by the learned Principal District cum Judicial Magistrate, Eraniel.

2.A perusal of the said order would show that the learned Principal District Munsif cum Judicial Magistrate, Eraniel, has granted bail to the petitioner under Section 330 of Cr.P.C for the offence under Section 379, merely based upon the certain Medical records produced by the petitioner. Before passing the order under Section 330 Cr.P.C., he has to conduct an enquiry under Section 328 or 329 Cr.P.C., as the case may be and he has to record a finding



with regard to unsoundness of mind, but it appears that the learned Principal District Munsif cum Judicial Magistrate, Eraniel, has not followed the aforesaid procedures.

3.Hence, this Court has directed the Registry to call for report from the learned Principal District Munsif cum Judicial Magistrate, Eraniel, on or before 29.07.2019, by fax.

4.In pursuance of the aforesaid directions, the learned Principal District Munsif cum Judicial Magistrate, Eraniel, has submitted a report and stated that the trial Court has passed the said order by wrongly interpreting the Sections 328 and 329 Cr.P.C.

5.The learned counsel for the petitioner has submitted that already the petitioner was taking treatment for his mental illness at Thiruvananthapuram Medical Health Centre. He further submitted that the aforesaid cases are pending before the different Magistrates at the Kanyakumari District and therefore he requests to direct the petitioner to appear before the Chief Judicial Magistrate of the Kanyakumari District and on such appearance, the Chief Judicial Magistrate may be directed to conduct the enquiry as per the procedure prescribed under Sections 328 and 329 and pass appropriate orders under Section 330 Cr.P.C.

6.The learned Government Advocate (Crl.Side) has submitted that the petitioner has involved in 7 two wheeler theft cases including the present case. However, she did not raise any objection for giving direction to the learned Chief Judicial Magistrate to conduct enquiry with regard to the unsound mind of the petitioner and pass appropriate orders in accordance with law.

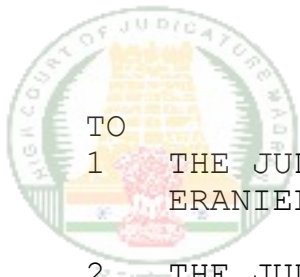
7.Taking into consideration of the aforesaid facts, the petitioner is directed to appear before the concerned Chief Judicial Magistrate of the Kanyakumari District within a week from the date of receipt of a copy of this order and on such appearance, the concerned Chief Judicial Magistrate has to call for the aforesaid FIRs from the concerned Magistrates and conduct an enquiry with regard to the unsound mind of the petitioner by following the procedure prescribed under Sections 328, 329 and 330 Cr.P.C and pass appropriate orders in accordance with law.

8.With the aforesaid directions these petitions are disposed of.

sd/-
31/07/2019

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE
ERANIEL KANYAKUMKARI DISTRICT

2 THE JUDICIAL MAGISTRATE NO.I
PADMANABHAPURAM, KANYAKUMKARI DISTRICT

3 THE JUDICIAL MAGISTRATE NO.I
NAGERCOIL, KANYAKUMKARI DISTRICT

4 THE JUDICIAL MAGISTRATE NO.I
KUZHITHURAI, KANYAKUMKARI DISTRICT

5 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

6 THE INSPSECTOR OF POLICE
KARUNGAL POLICE STATION,
KANYAKUMARI DISTRICT.

7 THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION
KANYAKUMARI DISTRICT

8 THE INSPECTOR OF POLICE,
KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.

9 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1. CC to M/S.R.RUSSEL RAJ Advocate SR.No.12646

ORDER
IN
CRL OP (MD). Nos.10119, 10120,
10122 & 10129 of 2019
Date :31/07/2019

KM/JC/SAR-II (08.08.2019) 4P 12C