



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10329 of 2019

Manikandan

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
Crime No.358 of 2019

... Respondent/Complainant

For Petitioner : M/s.R.Karunanidhi, Advocate.
For Respondent : Ms.M.Anantha Devi,
Government Advocate (Crl.Side)

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

PRAYER :-

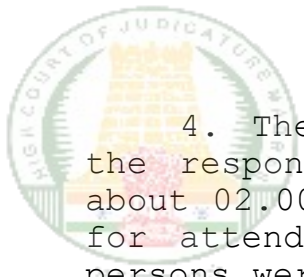
For Anticipatory Bail in Crime No. 358 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 399 of IPC, in Crime No.358 of 2019, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the petitioner is an innocent person and he has been falsely implicated in the above case. He further submitted that as per the FIR, the defacto complainant is aged about 77 years and he has noticed the presence of the accused persons on 17/18.06.2019 at about 02.00 a.m. He further submitted that at the advanced age of 77 years, he would not have noticed the identity of the accused persons during the mid-night, and hence, he prayed to grant anticipatory bail to the petitioner.



4. The learned Government Advocate (Crl.Side) appearing for the respondent has submitted that on 17/18.06.2019, mid-night at about 02.00 p.m, when the defacto complainant came out of his house for attending the natural call, he has noticed that the accused persons were standing near his house and talked about with regard to commit dacoity and also armed with deadly weapons, hence, he lodged a complaint before the respondent police. Based on the said complaint, the case has been registered and the petitioner also having three previous cases under Section 379 IPC. She further submitted that already A1, A4 to A7 were arrested and remanded to judicial custody and A1 detained under the 'Goondas Act'. A4 to A7 were released on bail. She further submitted that the investigation is still pending, and hence, she opposed this petition.

5.By way of reply, the learned counsel for the petitioner has submitted that three previous cases were registered by the same Investigation Officer on the same day and in those cases, the petitioner already on bail and therefore he prayed to grant anticipatory bail to the petitioner.

6.Taking into consideration the fact that in the FIR itself, the age of the defacto complainant is mentioned as 77 years and that in the said advanced age whether he could have noticed the identity of the accused persons during night hours i.e at 02.00 a.m is highly doubtful and also the fact that already some of the accused persons were arrested and released on bail and in the previous cases, the petitioner is already on bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, No.II, Sivakasi, on condition that the petitioner 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 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 petitioner fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioner 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 petitioner shall not tamper with evidence or witness either during investigation or trial.



(iv) the petitioner 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/-

25/07/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.II, SIVAKASI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.
3. THE INSPECTOR OF POLICE,
SIVAKASI EAST POLICE STATION, VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.KARUNANIDHI Advocate SR.No.12357

ORDER

IN

CRL OP(MD) No.10329 of 2019

Date :25/07/2019

MS/VR/SAR-1/08.08.2019/3P.6C