



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

Thursday, the Thirty First day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.17684 of 2018

A1 AMEEN

... PETITIONER / ACCUSED No. 1

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE
KALAKADU POLICE STATION,
TIRUNELVELI DISTRICT.
IN CR NO. 263 OF 2015

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.M.A.JINNAH Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

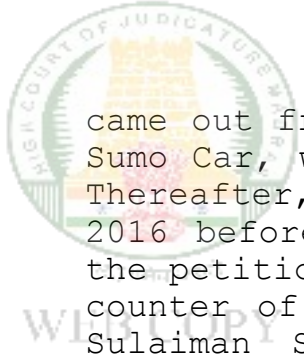
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner / A1, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 302 r/w.149 of IPC., in Crime No.263 of 2018, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant / Village Administrative Officer, had lodged a complaint to the respondent Police that on 14.09.2015, at about 2.15 a.m., while the defacto complainant was in the Office, his Assistant informed that a Corpus of a male, aged about 55 years, is lying into the Forest land in Survey No.5/9 with multiple injuries. Thereafter, it was identified that the Corpus is one that of Kumaradass S/o. Kollappa Pillai, who belongs to Palace Road, Perumal Koil Street, Tukalay. Besides the Corpus, a Mahindra Tempo Load Van, bearing Registration No.TN-59-BY-3744 found abandoned in the place of occurrence.

3. The learned counsel appearing for the petitioner submits that the case of the prosecution is totally false. Originally one Nadheem was abducted in front of the District Court, Madurai, while he came out from the Court, after complying the condition before the learned Judicial Magistrate No.V, Madurai, in connection with another case, on 10.06.2016 along with one Sulaiman Sait. While they



came out from the Court, they were abducted by 20 persons in a TATA Sumo Car, which was informed to the Control Room, Emergency Police. Thereafter, a Habeas Corpus Petition was filed in HCP(MD)No.720 of 2016 before this Court stating about the illegal custody taken by the petitioner. In the proceedings of HCP, it was known through the counter of the Superintendent of Police, Kanyakumari that the said Sulaiman Sait and Natheem were taken in the custody only on 11.06.2016 in connection with the case in Crime No.201 of 2016 by Aaralvai Mozhi Police Station, for the offence under Sections 294 (b), 387 and 506(ii) IPC., and under Section 25(1)(b)(4) of Indian Arms Act and was produced before the learned Judicial Magistrate, Boopthapandi, within 24 hours from the time of arrest and thereafter, they were remanded to judicial custody and lodged in Central Prison, Palayamkottai. In the HCP, there has been averments and counter averments made by the petitioners and the respondent police. This Court while rendering an order on 19.09.2016 had stated as follows:-

"18. Now, turning to the argument advanced by the learned counsel for the petitioner that the detenu has been falsely implicated in the case in Crime No.201 of 2016, we restrain ourselves from expressing any opinion, because, it requires a thorough investigation and on completion of investigation, it is for the jurisdictional Court to go into the said question. We cannot go into the said question, at this stage. Therefore, the argument of the learned counsel, in this regard, is rejected.

4. The contention of the petitioner is that these petitioners were taken illegal custody by the police and during their illegal custody on 11.06.2016, the Sulaiman Sait and Natheem had given a confession about their complicity in various offences and the complicity in Crime No.263 of 2015 wherein this petitioner's name is also found. Thereafter only, this petitioner had been made as accused in this case. He further contended that on the basis of the confession, that too, obtained during illegal custody, this petitioner has been arrayed as an accused, which is illegal. The manner in which the case has been investigated and a particular group of persons have been made as an accused by foisting several cases would reveal that the petitioners and other accused have been falsely implicated in this case and there is no evidence other than the tainted confession.

5. The learned Government Advocate (crl.side) appearing for the State has filed a counter wherein it is stated that the overt act and the role played by the petitioner in the commission of above offence has been proved. He would further submit that on 14.09.2015, the petitioner herein / accused and another accused hired a Tempo van of the deceased, as if to carry plantain load from nanguneri. Later, they took him to Mangamma Road near Kalakad, where the petitioner / Accused No.1 cut the deceased with knife in his palm of hand and neck. At that time, another accused, closed



the mouth of the deceased with hand. The accused Nazir caught hold the head of the deceased and this petitioner again stabbed the deceased with knife on his left ear, resulting which, he succumbed

6. The learned Government Advocate has produced the confession statement of Sulaiman Sait / A6, dated 11.06.2016 and one Natheem / A3, dated 07.09.2016 and the statement of the wife of the deceased, dated 26.07.2018 and vehemently opposed the anticipatory bail application stating that it is a cold blooded gruesome murder and the petitioner and other accused belonged to a radical group and in furtherance of their ideology, they have been indulging in eliminating the persons, who are opposed to them, in a well planned and cold blooded manner and thereby disturbing the peace, tranquillity of the society and its social fiber.

7. Considering the above facts and circumstances of the case and on the rival submissions and the materials placed before this Court, though there is some force in the arguments put forth by the petitioner with regard to the manner in which the confession were recorded, it is seen that there are materials against the petitioner. The admissibility of the same has to be looked into only at the time of trial, this Court is not inclined to grant anticipatory bail to the petitioner. Hence, the Criminal Original Petition stands dismissed.

sd/-

31/01/2019

/ TRUE COPY /

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

TO

1 THE INSPECTOR OF POLICE
KALAKADU POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1. CC to MR.S.M.A.JINNAH Advocate SR.No. 2189

ORDER

IN

CRL OP(MD) No.17684 of 2018

Date :31/01/2019

MSI/PN/SAR-II/05.02.2019-3P/4C