



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

Date : 13/08/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11114 of 2019

Arputhamani @ Sekarmani

... Petitioner/Accused No.3

Vs

State rep by
The Inspector of Police,
Thazhamuthu Nagar Police Station,
Tuticorin District.
Crime No. 165/2019

... Respondent/Complainant

For Petitioner : M/s.C.Susi Kumar, 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. 165 of 2019 on the file of the Respondent Police.

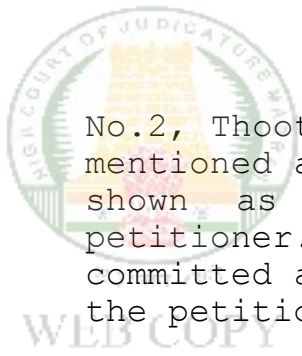
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 174 Cr.P.C @ 302 of IPC, in Crime No.165 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that A2 had illegal contact with the petitioner herein and since her husband (deceased) gave torture to A2 to snap such a relationship with the petitioner herein, she instructed her son (A1) to commit murder when they are going to sea for fishing and in pursuance of the said instructions, A1 has committed murder of the deceased.

3.The learned counsel appearing for the petitioner has submitted that the case was altered in to under Section 302 IPC and based on the confession said to have been given by A2, the respondent has sent a alteration report to the Judicial Magistrate,

<https://hcservices.ecourts.gov.in/hcservices/>



No.2, Thoothukudi on 10.07.2019, in which, the name of A1 & A2 alone mentioned and the said alteration report also the petitioner has not shown as accused. But, the respondent tried to arrest the petitioner. He further submitted that the petitioner has not committed any offence, and therefore, he prayed anticipatory bail to the petitioner.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that after the arrest of A2, she gave a confession statement voluntarily, in which, she has stated that she had illegal contact with the petitioner herein and hence, the petitioner herein has been arrayed as accused and with regard to the same, an alteration report was submitted to the learned Judicial Magistrate, No.2, Thoothukudi, only today (13.08.2019) and also produced a copy of the alteration report.

5.In the said alteration report, the respondent has not put any as to when and he has submitted that the said alteration report to the Court. In the said report, he has stated that on 14.07.2019 itself, the petitioner herein has been arrayed as accused No.3. But, as per the submission made by the learned Additional Public Prosecutor only today (13.08.2019), the respondent has filed the said alteration report before the learned Magistrate Court. The only allegation made in the said alteration report against the petitioner is that on 01.06.2019 and 10.07.2019, A2 has talked with the petitioner herein through cell phone on several times. Except this allegation, no other allegation has been made in the said alteration report. In the confession statement said to have been given by A2 before the police also she has not stated that the petitioner has conspired with the other accused persons to commit murder of the deceased. On the contrary, she has stated that she had illegal contact with the petitioner. Except the said statement, she has not stated any other statement to implicate the petitioner in the above crime. It is also to be pointed out that on 10.07.2019, the respondent has filed an alteration report before the Judicial Magistrate, No.2, Thoothukudi, in which, only two persons (A1 & A2) were shown as accused.

6.Taking into consideration all the facts, 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, No.II, Tuticorin, 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/-
13/08/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE NO.II, TUTICORIN.
- 2.DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.
- 3.THE INSPECTOR OF POLICE,
THAZHAMUTHU NAGAR POLICE STATION,TUTICORIN DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.C.SUSI KUMAR Advocate SR.No.13541

ORDER
IN
CRL OP(MD) No.11114 of 2019
Date :13/08/2019

dss
TK/VR/SAR.3/20.08.2019/3P/6C