



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/08/2019

WEB COPY

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11595 of 2019

Muthuraj, ... Petitioner/Sole Accused

Vs

State Rep by
The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
(Crime No.141 of 2019). ... Respondent/Complainant

M.S.Raja ... Petitioner/Intervener

For Petitioner : M/s. P. Banuprasath,
Advocate.
For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)
For Intervener : Mr.N.Ramesh Arumugam
Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.141 of 2019 on the file of the respondent.

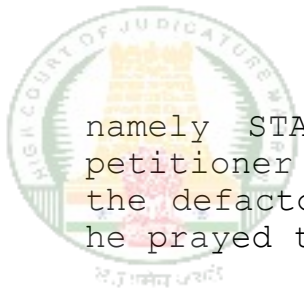
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 82(1) of Juvenile Justice (Care and Protection of Children) Act, 2015, in Crime No.141 of 2019, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the petitioner is working as principal in a school

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namely STA Matriculation School. He further submitted that the petitioner has not committed any offence and due to previous enmity, the defacto complainant has lodged a false complaint and therefore, he prayed to grant anticipatory bail to the petitioner.

4.Per contra, the learned counsel appearing for the intervener/defacto complainant has submitted that since the petitioner gave corporal punishment to the school children, he shall be liable to be punished under Section 82(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. He further submitted that as per Section 86(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015, where an offence, under this Act, is punishable with imprisonment for less than three years or with fine only, such offence shall be non-cognizable, bailable and triable by any Magistrate and therefore, this anticipatory bail application is not maintainable.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police has adopted arguments made by the learned counsel appearing for the intervener/defacto complainant.

6.As per the FIR, the petitioner herein is working as principal in a school namely STA Matriculation School and he subjected the school children to corporal punishment and hence, he is liable to be punished under Section 82(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. As per the provision under section 82(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, for the first offence fine alone can be imposed. As per Section 86(3) of the said Act, where an offence, under the said Act, is punishable with imprisonment for less than three years or with fine only, such offence shall be non-cognizable, bailable and triable by any Magistrate. As per Section 438 Cr.P.C., anticipatory bail can be granted only in respect of non-bailable offence. Since the offence under Section 82(1) of Juvenile Justice (Care and Protection of Children) Act, 2015, is bailable and non-cognizable, this petition is not maintainable.

7.Accordingly, this Criminal original petition is dismissed.

sd/-

28/08/2019

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



TO

1. The Inspector of Police,
Srivaikundam Police Station,
Thoothukudi District.
(Crime No.141 of 2019).

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.P.BANUPRASATH, Advocate Sr. No. 14333

+1CC TO MR.M.S.JEYAKARTHIK, Advocate Sr. No. 14276

ORDER

IN

CRL OP(MD) No.11595 of 2019

TR/PN/SAR-IV (09.09.2019) 3P 5C