

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11604 of 2019

1. K.Senthil Kumar
2. M.Velu
3. P.Ramanathan

... Petitioners/Accused No.1 & 4 & 5

- Vs -

State Rep.by
The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
(Crime No.145 of 2019)

... Respondent/Complainant

For Petitioners : M/s.K.Ramanathan,
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. 145 of 2019 on the file of the respondent police.

ORDER : The Court Made the following order :-

The petitioners/accused No.1,4 and 5, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 5(a) of Explosives substances (Amendment) Act, 1908 seek anticipatory bail.

2. Heard both sides.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against the petitioners. He further submitted that as per the First Information Report, the petitioners were using the gun powder only for fishing in the sea and the properties were recovered. He would further submit that A2 and A3 in this case were granted bail by this

Court. Hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that that the petitioners along with other have allegedly possessed explosive substances of 125gram of dynamite gun powder with 11 tubes and detonators numbers in 21 and 2 numbers of G.P.D.2 head lights and four match boxes and cotton thread numbers in two, which were prohibited. Hence he strongly opposed to grant bail to the petitioners. He would further submit that three previous cases of similar nature are pending against the first petitioner(A1). However he fairly conceded that no previous case is pending against the second the third petitioners (A4 and A5) and the entire properties used for catching fish has been recovered.

5. Taking into consideration the fact that there are three previous cases of similar nature pending against the first petitioner(A1) this Court is not inclined to grant anticipatory bail to the first petitioner. Taking into consideration all the allegations made against the petitioners that they were in possession of gun powder and detonators for fishing purpose only and also the fact that A2 and A3 in this case were granted bail by this Court and also considering the fact that no previous case is pending against the second and third petitioners (A4 and A5) and also the fact that the entire properties used for catching fish had been recovered, this Court is inclined to grant anticipatory bail to the second and third petitioners (A4 and A5) with certain conditions.

6. Accordingly, the second and third petitioners (A4 and A5) are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned District Munsif cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District on condition that the second and third petitioners (A4 and A5) shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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:

[a] if the second and third petitioners (A4 and A5) fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the second and third petitioners (A4 and A5) shall report before the respondent Police, daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for the interrogation.

[c] the second and third petitioners (A4 and A5) shall not tamper with evidence or witness either during investigation or trial.

[d] the second and third petitioners (A4 and A5) shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second and third petitioners (A4 and A5) in accordance with law as if the conditions have been imposed and the second and third petitioners (A4 and A5) 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. As regards the first petitioner (A1), since three previous cases of similar nature are pending this petition is dismissed.

sd/-
22/08/2019

/ TRUE COPY /

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

TO

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVADANAI, RAMANATHAPURAM DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
THONDI POLICE STATION, RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. K.RAMANATHAN Advocate SR.No.13888

ORDER
IN
CRL OP(MD) No.11604 of 2019
Date :22/08/2019

MS/VR/SAR-3/28.08.2019/3P.6C