



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

Date : 30/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.12173 of 2019

WEB COPY

1. Rajadurai
2. M.Sasikumar

.. Petitioners/Accused rank not known

Vs

The State rep.by
The Inspector of Police,
Sellur Police Station,
Madurai City,
(in Crime No. 451 of 2019).

... Respondent/Complainant

For Petitioners: M/s.T.Sugadev,
Advocate.

For Respondent : Mrs.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.451 of 2019 on the file of
the Respondent Police.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 147,
294(b), 324, 448, 427, 379 and 506(ii) of IPC, in Crime No.451 of
2019, seek anticipatory bail.

2.Heard both sides.

3.Insofar as the first petitioner is concerned, the learned
counsel for the petitioners made an endorsement that he is
withdrawing the petition against him as his name has not been
mentioned in the FIR. Insofar as the second petitioner is concerned,
the learned counsel for the petitioners has submitted that the
allegation against him is that he went along with four other accused
persons to the shop of the defacto complainant and attacked him. He
further submitted that in the FIR, it is stated that the second
petitioner and four other accused persons have taken away a sum of
Rs.2000 from the table drawer. But, in the alteration report



submitted by the respondent, it is clearly stated that the said amount has not been taken by the accused persons. He further submitted that the injured sustained only simple injuries and he was already discharged from the hospital, and hence, he prayed to grant anticipatory bail to the second petitioner.

WEB COPY

4.The learned Government Advocate (Crl.Side) fairly conceded that though it is stated in the FIR that the accused persons have taken away a sum of Rs.3,20,000/-, but, subsequently, the defacto complainant has stated that the said amount has not been taken away by the accused persons and the said amount is very much available in the table drawer of the said shop. However, she opposed this petition to grant anticipatory bail to the second petitioner on the ground that the investigation is still pending.

5.Taking into consideration of the fact that even though it is stated in the FIR that the accused persons have taken away a sum of Rs.3,20,000/- from the table drawer of the said shop, subsequently, the defacto complainant has stated that the said amount has not been taken away by the accused persons and the said amount is very much available in the table drawer of the said shop and also the fact that the injured sustained only simple injuries and he was also discharged from the hospital, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

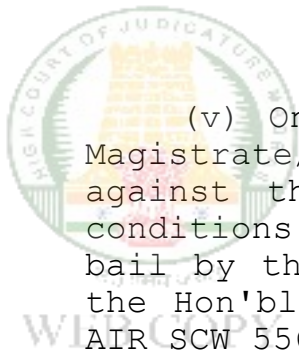
6.Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai, that the second petitioner shall execute a bond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

(ii) considering the submission made by the learned counsel for the petitioners that since the second petitioner take a treatment for his liver problem, he shall report before the respondent police daily at 10.30 a.m for a period of one week and thereafter, as and when required before the respondent police for interrogation.

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

(iv) the second 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 third petitioner in accordance with law as if the conditions have been imposed and the third petitioner 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.

9. Insofar as the first petitioner is concerned, this petition is dismissed as withdrawn.

sd/-
30/08/2019

/ TRUE COPY /

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

TO

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

ORDER
IN
CRL OP(MD) No.12173 of 2019
Date : 30/08/2019

DSS
ES/PN/SAR 2/12.09.2019/3P/5C