



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/11/2019

PRESENT

The Hon'ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.16153 of 2019

Jose Ananth Singh

... Petitioner/Accused No.6

Vs.

State Rep. by
The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.
(Crime No.356 of 2017).

... Respondent/Complainant

For Petitioner : M/s. G. Karuppasamy Pandian,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.356 of 2017 on the file respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is shown as accused No.6 in Crime No.356 of 2017 on the file of the Panakudi Police station, Tirunelveli District, for the offences punishable under sections 449 and 302 of I.P.C. @ 147, 148, 120(B), 212, 449 and 302 of I.P.C.

3. The petitioner filed Crl.O.P.(MD)No.12675 of 2017 seeking the relief of anticipatory bail. When the matter was taken up for hearing on 09.10.2017, there was no representation. Thereafter, the

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case was posted under the caption "for dismissal" and thereafter, the same was dismissed for non-prosecution on 10.10.2017. He filed Crl.O.P.(MD) No.911 of 2018 seeking the relief of anticipatory bail. The said petition was dismissed as withdrawn on 01.02.2018. Thereafter, he filed Crl.O.P.(MD)No.4192 of 2018. It was originally listed on 16.03.2018. Thereafter, it was adjourned to 21.03.2018, 22.03.2018, 27.03.2018 and finally it came to be dismissed on 05.04.2018.

4. It is relevant to mention here that this Court made a clear observation that the anticipatory bail can be granted in a case of murder, only if it can be demonstrably shown that it is a case of false implication. In this case, there is nothing on record to show that the petitioner has been falsely implicated and that is why not satisfied with the contentions urged by the learned counsel appearing for the petitioner, his petition for anticipatory bail was dismissed on 05.04.2018.

5. Thereafter, he filed Crl.O.P.(MD)No.8475 of 2018 and the same was dismissed on 05.06.2018. One more attempt was made before me by filing Crl.O.P.(MD)No.18141 of 2018. Reiterating the very same reasons given on the earlier occasions Crl.O.P.(MD)No.18141 of 2018 was dismissed on 10.10.2018.

6. The petitioner filed Crl.O.P.(MD)No.6856 of 2019 seeking the very same relief of anticipatory bail. However, when the matter was taken up for hearing on 09.05.2019, there was no representation on behalf of the petitioner. Upon hearing the submissions of the learned Additional Public Prosecutor that his earlier attempts had ended in vain, this Court dismissed the matter on merits. This Court specifically observed that even though in the typed set of papers the medical records of the petitioner have been enclosed, it is not sufficient to persuade the Court to take a different view.

7. This Court specifically observed that there is no change in circumstance. But then, the police have not been able to file final report on account of the continued abscondence of the petitioner. With such observations, the petition suffered a dismissal on 09.05.2019.

8. The petitioner appears to be having a never say die attitude. He filed one more petition for anticipatory bail that has been now listed before me. The petitioner's counsel would make a strong claim that when law permits him to file successive petitions for anticipatory bail, he is entitled to file the same. It may be true that the principle of *res judicata* will not apply in criminal cases and that one is at liberty to file successive petitions for bail or anticipatory bail. But then, certain elementary principles will have to be borne in mind. There must be a clear change in circumstance. In this case, no such change in circumstance has been



petition has stated that the investigation is almost completed and the custodial interrogation is not warranted and that taking note of the lapse of time, anticipatory bail can be granted. This contention was earlier taken before me and I had specifically rejected the same. Therefore, I have to necessarily observe that when there is no change in circumstances, the petitioner has filed one more petition. This is nothing but unnecessarily consuming the precious judicial time of the Court. The petitioner happens to be a lawyer. When his earlier attempts ended in vain, the petitioner ought to have surrendered and applied for regular bail. He has not chosen to do so.

9. The learned Government Advocate would point out that the petitioner had inflicted injuries with Aruval on the head near the eye of the victim. This has been brought out from the confession of accused No.4.

10. This is a case in which there are allegations of specific overt act against the petitioner. Since the said overt acts have been attributed to the petitioner herein, the question of granting anticipatory bail will not at all arise.

11. The learned Government Advocate(Crl. Side) would reiterate his contention that only on account of the abscondence of the petitioner, they are unable to file the final report. This is a case of the year 2017. The conduct of the petitioner has been solely responsible for the dragging on the investigation.

12.This Court was inclined to impose cost of Rs.1 Lakh on the petitioner, for having abused the Court process. The petitioner's counsel on instructions states that the petitioner will surrender before the respondent on 12.11.2019 itself. Since the petitioner undertakes to surrender before the respondent on 12.11.2019, I am refraining from imposing cost on the petitioner.

13. With this observation and recording the undertaking given by the petitioner, the criminal original petition stands dismissed.

sd/-
11/11/2019

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



TO

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

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

+1 CC to M/s.G.KAUPPASAMY PANDIAN, Advocate (SR-19547[I] dated
13/11/2019)

ORDER

IN

CRL OP(MD) No.16153 of 2019

Date :11/11/2019

PMU

TE/JC/SAR-II : 02/03/2020 : 4P/4C