



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

Date : 19/12/2019

PRESENT

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

CRL OP(MD). No.19127 of 2019

1. Sakthivel Gounder

2. S.Balasubramaniam ... Petitioners/Accused

Vs

1. The Deputy Superintendent Of Police,
Vedasandur,
Dindigul District

2. State through the Inspector of Police,
Vedasandur Police Station,
Dindigul District,
in Crime No.456/2019. ...Respondents/Complainants

3. K.Sureshkumar ... Respondent /Defacto Complainant

For Petitioners : M/s.R.Sevugaraja,
Advocate.

For R1 & R2 : Mr.A.Robinson,
Government Advocate (Crl.Side)

For R3 : Mr.Mahaboob Ahtiff, Advocate

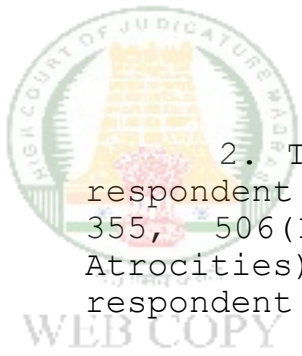
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Cr.No.456 of 2019 on the file of the respondent.

ORDER : The Court made the following order :-

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



2. The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 355, 506(I) of I.P.C., and 3(1)(s) of SC/ST (Prevention of Atrocities) Act, in Crime No.456 of 2019 on the file of the respondent police, seek anticipatory bail.

3. Heard the learned counsel appearing for the victim.

4. This is a case arising under Section SC/ST (Prevention of Atrocities) Act.

5. The case of the defacto complainant is that he is working as a sanitary worker in the local panchayat. He is also working as a spot driver for one Decon Karthi. Some theft had taken place in the house of Decon Karthi. While so, on 12.12.2019 at about 6.30 p.m., the petitioners herein had come to the house of the defacto complainant and asked him if he had informed Decon Karthi that the petitioners had committed theft in question.

6. The defacto complainant is said to have denied the said imputation. He also telephonically contacted Decon Karthi and requested him to inform the petitioners herein that he had not informed such thing as alleged by the petitioners herein. Even though Decon Karthi confirmed the stand of the defacto complainant, the petitioners not satisfied with the same had allegedly beaten the defacto complainant with their slipper. When the defacto complainant's mother and mother-in-law came to the spot, the petitioners left the scene. Before doing so, the petitioner had used abusive expressions by referring to the defacto complainant's community. The defacto complainant, there upon, lodged a complaint before the Vendasandur Police Station, leading to registration of Crime No.456 of 2019 for the offences under Sections 294(b), 355, 506(i) of IPC and Section 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

7. The case has been registered for the offence under Section 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The said provision can be invoked only if a member of the scheduled caste is abused by caste name in any place within public view. In this case, even according to the defacto complainant, only his mother and mother-in-law were present. Therefore, even going by the averments set out in the FIR, I hold that the offence under Section 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 is not attracted.

8. There upon, the learned counsel appearing for the defacto complainant, submitted back Section 3(2)(V) of the Scheduled Caste and



Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. He pointed out that in this case, Section 506(i) of IPC has also been invoked and it is one of the scheduled offence.

9. But then, on a careful reading of the FIR, I hold that the threat alleged to have been held out in this case is not a real and substantial one. It has been held by this Court in the decision reported in **(1989 Crl.L.J.669 (Noble Mohandass Vs. State))** that to attract the offence under Section 506(ii) of IPC., the intimidation held out by the accused must be a real one.

10. Since I hold that the offences are not attracted, the petitioners are entitled to anticipatory bail. But then, the occurrence appears to have actually taken place in the sense that the petitioners had committed the offence under Section 355 of IPC against the defacto complainant. Therefore, the petitioners without prejudice their defence in the trial, undertake to write out a hand written letter of apology expressing their unconditional apology to the defacto complainant. The same will be enclosed along with the surrender petition. The original letter will be handed over by the Court below to the defacto complainant. The petitioners give a further undertaking that they will keep off from the defacto complainant in future and they will not harass him and if they do so, this Court will not hesitate to cancel the anticipatory bail now granted.

11. It is reiterated that vide order dated 26.11.2019 in Crl OP (MD) No.17224 of 2019, I have already held that this Court will have the power to grant anticipatory bail even in cases arising under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The finding is given only based on the prima facie view for the purpose of granting anticipatory bail. Therefore, the observations made in this order will not have any bearing on the investigation as such.

12. In view of the above, I am inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned SC/ST Sessions Judge, Dindigul District, and on their executing 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 learned Court concerned and on further condition that the petitioners shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.



13. The petitioners shall appear before the concerned Court within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

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sd/-
19/12/2019

/ TRUE COPY /

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

TO

- 1 THE SC/ST SESSIONS JUDGE,
DINDIGUL DISTRICT.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
VEDASANDUR,
DINDIGUL DISTRICT
- 3 THE INSPECTOR OF POLICE
VEDASANDUR POLICE STATION,
DINDIGUL DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.SEVUGARAJA, Advocate (SR-22484[I] dated 20/12/2019)

ORDER
IN
CRL OP(MD) No.19127 of 2019
Date :19/12/2019

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ES/SKN/SAR 3/06.01.2020/4P/6C