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... **Petitioner/Accused No.1**

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

Date : 08/01/2020

PRESENT

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

CRL OP (MD) .Nos.234, 236, 240 and 253 of 2020

Masanasamy, ... Petitioner/Accused No.1
in Crl.O.P.(MD)Nos.234 & 236 of 2020

1. Pachai Perumal
2. Jeya Murugan ... Petitioners/Accused Nos.1 & 2
in Crl.O.P.(MD)No.240 of 2019

1. Madasamy
2. Vignesh ... Petitioners/Accused No.3 & 4
in Crl.O.P.(MD)No.253 of 2020

Vs

State rep.by
The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
(Crime Nos.154, 155 and 156 of 2019).

... Respondent/Complainant
in all Crl.O.Ps.

For Petitioner : Mr. Veerakathiravan,
Senior Counsel,
for Mr.A.Thiruvadi Kumar
(in Crl.O.P.(MD)Nos.234, 236 and 253 of 2020)

: Mr.S.Senthil Sankaranathakumar
(in Crl.O.P.(MD)No.240 of 2020)

For Respondent : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor
(in all Crl.O.Ps.)

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



COMMON PRAYER :-

for Anticipatory Bail in Crime Nos.154, 155 and 156 of 2019 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

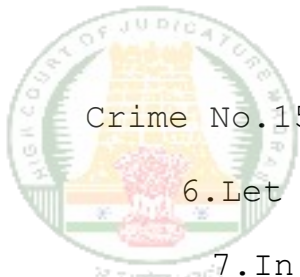
These four criminal original petitions have been filed by some of the accused in Crime Nos.154 of 2019, 155 of 2019 and 156 of 2019 registered on the file of the Inspector of Police, Ottapidaram Police Station.

2.Heard the learned Senior Counsel appearing for the petitioners in CrI.O.P.(MD)Nos.234, 236 and 253 of 2020, learned counsel appearing for the petitioner in CrI.O.P.(MD)No.240 of 2020 and the learned Additional Public Prosecutor appearing for the respondent.

3.All these three cases came to be registered on 30.12.2019 in the background of recently concluded Local Body Elections. Masanasamy had fielded his wife Latha as a candidate for the post of Panchayat President, Ottapidaram. She was opposed by one Elaiyaraja. It is stated that Elaiyaraja was supported by one Pachai Perumal and Mariappan and others. Thus, even during the course of election campaign, there was a lot of bitterness and feud between Masanasamy group and Pachai Perumal group.

4.Mariappan, as already pointed out, belongs to Pachai Perumal group. The voting was taking place on 30.12.2019. A severe fight appears to have broken out between the group led by Masanasamy and the group led by Pachai Perumal. Both Masanasamy as well as Pachai Perumal suffered cut injuries. Crime No.155 of 2019 was registered at the instance of Ramakrishnan who belongs to Masanasamy group. Pachai Perumal and his son Jeya Murugan are figuring as accused in Crime No.155 of 2019. The said FIR was registered for the offences under Sections 294(b), 324 and 307 of IPC. Crime No.156 of 2019 was registered at the instance of Jeya Murugan against Masanasamy and five others for the offences under Sections 147, 148, 294(b), 323, 324 and 307 of IPC. Soon after this occurrence, Mariappan was done to death. Mahendran Son of Mariappan lodged a complaint leading to registration of Crime No.154 of 2019 for the offences under Sections 147, 148, 341, 294(b) and 302 of IPC. In this FIR, Masanasamy is figuring as first accused and seven others have also been named in the said FIR. It is not in dispute that both Masanasamy as well as Pachai Perumal are presently in the Hospital taking treatment for the head injuries suffered by them.

5.Masanasamy seeks anticipatory bail in Crime No.154 of 2019 and in Crime No.156 of 2019. Two of the accused in Crime No.156 of 2019 seek anticipatory bail and filed CrI.O.P.(MD)No.253 of 2020. Pachai Perumal and his son Jeya Murugan seek anticipatory bail in



Crime No.155 of 2019 and filed CrI.O.P.(MD)No.240 of 2019.

6.Let me first state some undisputed facts.

7.In the clash between Masanasamy group and Pachai Perumal group, it was Masanasamy who was injured first. Soon thereafter, Pechai Perumal also suffered a severe cut injury on his head.

8.I had a look at the photographs and the entries made in the accident register. It is beyond dispute that both the head injuries are fairly severe, though not life threatening.

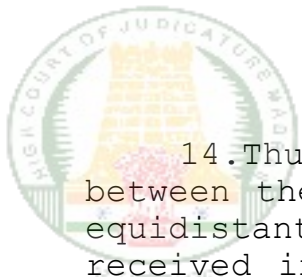
9.The spot where Masanasamy group and Pachai Perumal group fought with each other, is located at a distance of about half kilometer, or so from the Government Hospital, Ottapidaram.

10.It is stated by the prosecution that it would take approximately 8 to 10 minutes to reach the Hospital from the said battle spot.

11.Now the question that arises for consideration is whether Masanasamy is entitled to anticipatory bail in Crime No.154 of 2019.

12.The learned Additional Public Prosecutor took me through the FIR which was lodged by none other than Mahendran son of the deceased Mariappan. In his complaint, Mahendran had alleged that both rival groups had attacked each other and that, they have been admitted in the Government Hospital, Ottapidaram. Since he became afraid that something could have happened to his father, he rushed to the Hospital. His father was standing near the Government Hospital. At that time, injured Masanasamy along with his men entered into the Hospital. According to the defacto complainant Mahendran, while entering the Hospital, he proclaimed that Mariappan was responsible for everything and that, therefore, he must be cut and killed. According to the defacto complainant, instigated by Masanasamy, his henchmen attacked Mariappan and when Mariappan attempted to escape, he was chased and hacked to death. Of-course, Mahendran would claim that it was around 4.30 p.m.

13.Now one has to see whether the case projected by Mahendran is probable. Even Mahendran would admit that earlier in the day, there was a wordy quarrel between Pachai Perumal on the one hand and Arokiya Ravi on the other. Mahendran had scolded and shouted Arokiya Ravi. Thereupon, Arokiya Ravi had held out a direct threat to Mariappan. Mahendran states that his father Mariappan informed him about he had cautioned him to be careful. Mahendran would admit that when he was in the Mettur polling booth, he heard that there was a fight between the two groups and that, they had suffered injuries and that, they got admitted to the Government Hospital, Ottapidaram. It is admitted by the Investigation Officer that



14.Thus, one can safely conclude that the original battle spot between the two groups as well as Mettur Polling Booth are sort of equidistant from the Government Hospital, Ottapidaram. Mahendran received information that both groups had already been admitted to the Government Hospital. Only after receiving information, he left Mettur booth and came to Government Hospital, Ottapidaram.

15.As already pointed out, Masanasamy had suffered severe injury and he was injured first. Therefore, one can very safely conclude on a prima facie basis that by the time, Mahendran received information and rushed to the Government Hospital, Ottapidaram. Masanasamy would have already been admitted to Hospital. Therefore, his allegation that when he came and he saw his father, it was only at that time, Masanasamy was coming for getting himself admitted cannot be believed.

16.It is not in dispute that the death of Mariappan took place after a fight between Pachai Perumal and Masanasamy, had already taken place. It was probably a retaliation and a direct sequel and a fall out.

17.One must also bear in mind that even according to the defacto complainant Mahendran, in the morning, Arokiya Ravi had held out a direct threat to Mariappan. In the FIR, Arokiya Ravi has been mentioned and it is alleged that Muthu Murugan and Arockia Ravi and Mani hacked Mariappan successively on his head. One can therefore come to the conclusion that Masanasamy had also been roped in by the defacto complainant Mahendran son of the deceased. Since after a careful perusal of the entire materials on record, I find that there is every possibility of false implication, I deem it fit and appropriate to grant anticipatory bail to Masanasamy. Of-course, all the observations made herein are only prima facie findings and they cannot have any bearing whatsoever on the investigation. Crl.O.P.(MD)No.234 of 2020 is allowed.

18.Now the question comes whether Masanasamy deserves to be granted anticipatory bail in Crl.O.P.(MD)No.236 of 2020. I must straight away say that he is not entitled to grant of anticipatory bail in Crime No.156 of 2019.

19.The learned Additional Public Prosecutor would produce for my perusal the original accident register entries pertaining to Pachai Perumal. Pachai Perumal had suffered severe cut injuries on his head. That Masanasamy had a strong motive against Pachai Perumal is beyond dispute.

20.As already pointed out, Masanasamy's wife Latha and Elayaraja were locked in a direct fight. Pachai Perumal who is from the same village as that of Masanasamy, chose to support Elayaraja, opponent of Masanasamy. Therefore, Masanasamy and his



men were angry with Pachai Perumal, since he was supporting an outsider. That Pachai Perumal suffered severe injuries is beyond dispute. He is still taking treatment in the Hospital.

21.The son of Pachai Perumal is the defacto complainant in Crime No.156 of 2019. It is specifically stated that Masanasamy cut Pachai Perumal. He has been directly named in the FIR. Of-course, five others have also been named.

22.We are in a democracy. Democracy is all about peaceful competition for power. Violence can have absolutely no place whatsoever. The case on hand is a classic instance where violence appears to be ruling the roost. As already pointed out by the learned Additional Public Prosecutor, grant of anticipatory bail in a case by this nature, would definitely not send a right signal to the society. Therefore, both Crl.O.P.(MD)Nos.236 and 253 of 2020 stand dismissed. For the same reasons, 08.01.2020, I dismiss Crl.O.P.(MD)No.240 of 2020 also. Pachai Perumal appears to be the initial aggressor and he had inflicted severe cut injuries on Masanasamy.

23. In view of the above, I am inclined to grant anticipatory bail to the petitioner in Crl.O.P.(MD)No.234 of 2020 with certain conditions. Accordingly, the petitioner in Crl.O.P.(MD)No.234 of 2020 is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Vilathikulam, and on his executing 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 learned Magistrate concerned and on further condition that the petitioner in Crl.O.P.(MD)No.234 of 2020 shall appear before the respondent police as and when required for interrogation. The petitioner in Crl.O.P.(MD)No.234 of 2020 shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

24. The petitioner in Crl.O.P.(MD)No.234 of 2020 shall appear before the concerned Magistrate 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.

sd/-
08/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE JUDICIAL MAGISTRATE, VILATHIKULAM.
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
OTTAPIDARAM POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate (SR-452[I] dated
08/01/2020)

ORDER
IN
CRL OP(MD).Nos.234, 236, 240
and 253 of 2020
Date :08/01/2020

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