



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

Friday, the Twenty First day of August Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRL OP(MD) No.8512 of 2020

ELAMARAN

... PETITIONER / ACCUSED No.17

Vs

STATE REP BY ITS
INSPECTOR OF POLICE
PATTUKOTTAI TALUK POLICE STATION, THANJAVUR
DISTRICT
(CRIME NO. 1302 OF 2020) ... RESPONDENT / COMPLAINANT

For Petitioner : M/S. S. DEENADHAYALAN, Advocate

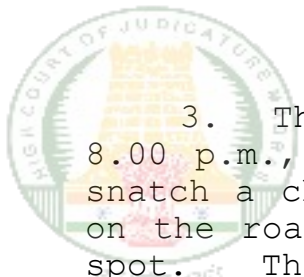
For Respondent : MR.A.ROBINSON,
GOVT. ADVOCATE (CRL. SIDE)

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as Accused No.17 in Cr.No.1302 of 2020 on the file of Pattukkottai Taluk Police Station, Thanjavur District, has filed the present anticipatory bail petition that he is apprehending arrest for the offence under Sections 147, 148, 294 (b), 323, 342, 353, 332, 307, 269, 188 IPC, r/w Section 3 of TNPPDL Act.

2. The learned counsel for the petitioner submits that a case was registered based on the complaint of one Mr.Ravichandran, Sub Inspector of Police, Pattukkottai Taluk Police Station that they received an information that there was an accident and the villagers of Aatthikottai village surrounded the persons, who have caused the accident and assaulted them and in order to rescue the said persons, the Sub Inspector of Police and other police officials went to the occurrence place, in a Bolero vehicle bearing Reg.No.TN49 G 0905 and in another private vehicle TN49 BE 8204 (Renault Kwid), but the villagers have also caused damages to the complainant's vehicle and thereby, they have committed the offence as stated above.



3. The case of the petitioner is that on 03.08.2020 at about 8.00 p.m., three persons, who came in a motor cycle, attempted to snatch a chain from the deceased, who was also riding a motorcycle on the road, due to which, the deceased fell down and died on the spot. This occurrence was witnessed by the villagers and the villagers also surrounded the accused, who attempted to rob the chain from the deceased and also informed the police. But the police in order to help the accused have foisted this false case against the entire villagers who secured the persons, who have committed robbery and also a murder.

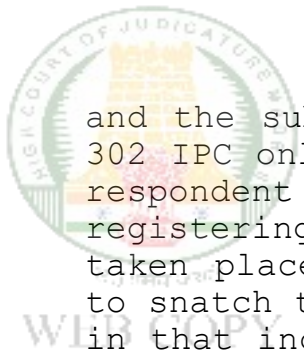
4. The case of the villagers is that as against the persons, who have committed robbery, a case was also registered in Cr.No.1301 of 2020 for the offence under Section 304(ii) IPC alone, but, only after the intervention of the higher officials, now, the case has been altered into Sections 392 and 302 IPC after two days only. It is further case of the villagers that the manner in which the case in Cr.No.1301 of 2020 was initially registered for the offence under Section 304(ii) IPC and the subsequent alteration of FIR would reveal the connivance of the complainant in rescuing the accused involved in Cr.No.1301 of 2020 and this case is also foisted to harass the petitioner and to protect the accused in Cr.No.1301 of 2020.

5. Per contra, the learned Government Advocate (Crl. Side) has submitted that on the complaint of one of the villagers, a case was originally registered in Cr.No.1301 of 2020 for the offence under Section 304(ii) IPC and the same was also altered into Sections 392 and 302 IPC on 05.08.2020. However, the villagers had taken the law into their hands and also brutally assaulted the accused in Crime No.1301 of 2020 and when the complainant and other police officials went in rescue of the accused from the villagers, the villagers also assaulted them and also damaged the vehicles.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. side).

7. The fact remains that the incident had taken place on 03.08.2020, at about 8.20 p.m., wherein the accused in Crime No.1301 of 2020 have attempted to snatch the chain from the deceased and in that incident, the deceased fell down and died on the spot. Though the complaint was lodged by the villagers, the case was registered for the offence under Section 304(ii) IPC and only after two days, the offence was altered into Sections 392 and 302 IPC. The incident in Cr.No.1302 of 2020 had taken place at 9.00 p.m. subsequent to the occurrence taken place at 8.20 p.m., in Cr.No.1301 of 2020.

8. It appears that apart from the Government vehicle, the Police have also used a private vehicle (Renault Kwid) bearing Reg. No.TN49 BE 8204 for rescuing the accused in Cr.No.1301 of 2020. <https://hcrs.reports.gov.in/licservices/> which the earlier Crime No.1301 of 2020 was registered



and the subsequent alteration of the offence into Sections 392 and 302 IPC only after two days, shows that some of the officers in the respondent Police Station have not acted in a fair manner while registering the case. Further, it appears that the incident had taken place where the accused in Cr.No.1301 of 2020 have attempted to snatch the chain from the person, who was riding a motorcycle and in that incident, the deceased fell down and succumbed to injuries. The villagers, who have witnessed the occurrence caught hold of the accused and it appears, they went to the extent of assaulting the accused and on that score, 19 villagers were arrayed as accused and this petitioner is added as Accused No.17.

9. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

10. Accordingly, the 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 on which the order copy was made ready before the learned Judicial Magistrate, Pattukkottai, Thanjavur District, on condition that the petitioner shall execute a separate 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 and on further conditions that:-

[a] the petitioner as well as the sureties shall submit a copy of their Aadhar card or any other identity cards issued by the Government, in proof of their address, along with the surety bonds.

[b] the petitioner shall report before the respondent police as and when required.

[c] the petitioner shall not tamper the evidence or witness either during investigation or trial.

[d] the petitioner shall co-operate for the investigation and the trial. The petitioner shall not abscond either during investigation or trial and in event of the petitioner absconds, the respondent police shall register a case as provided under Section 229-A IPC.

[e] in the event of breach of any of the aforesaid conditions, the learned Magistrate / trial Court is entitled to take appropriate action against the petitioner, as per the principles laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.



11. The Superintendent of Police, Thanjavur District is also directed to look into the manner in which the case in Cr.No.1301 of 2020 was registered and if he deems it fit, transfer the investigation from the file of the respondent Police Station.

WEB COPY

sd/-
21/08/2020

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
PATTUKKOTTAI, THANJAVUR DISTRICT

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR AT KUMBAKONAM.

3. THE SUPERINTENDENT OF POLICE,
THANJAVUR DISTRICT.

4 INSPECTOR OF POLICE
PATTUKOTTAI TALUK POLICE STATION, THANJAVUR
DISTRICT

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

ORDER
IN
CRL OP(MD) No.8512 of 2020
Date :21/08/2020

TR/RSK/SAR-III (25.08.2020) 4P 6C