



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/09/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD).No.9821 of 2020

Nagendra Sethupathi @ Sethupathi @ Sunami Sethupathi
... Petitioner/Accused -2

Vs

State rep.by
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
Crime No.389 of 2020. ... Respondent/Complainant

For Petitioner : Mr.S.Ravi,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Cr.No.389 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 120(B) and 311 IPC., and Section 25(1B)(b) and 7 of Arms Act, in Crime No.389 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is arrayed as A2. There was an enmity between A1 and one Moovendan and in order to murder the said Moovendan, on the date of occurrence, A1 along with other accused said to have roaming around with the country made gun and with deadly weapons. On suspicion, police arrested A1 and in the confession statement of A1, he has stated that the petitioner/A2 is his close friend and both A1 and A2 have planned to murder of one Moovendan.



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

4. The learned counsel appearing for the petitioner would submit that this petitioner is the friend of A1. Based on the confession of A1, this petitioner has been falsely implicated in this case. A1 has already arrested in similar nature of offence. So far as this petitioner is concerned, there are five previous cases as against him. Out of five cases, three cases ended in acquittal. There is no substantial allegation against this petitioner and hence, he prayed for grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police, on instructions, submitted that the petitioner along with A1 have planned to murder of one Moovendan. At that time, A1 was moving around with deadly weapon and he was arrested by the police and on his confession, it would reveal that A1 and this petitioner have planned to murder one Moovendan. Only based on the confession of A1, this petitioner was implicated in this case.

6. Considering the facts and circumstances of the case and also considering the rival submissions made on either side and on perusal of the materials available on records, it is seen that A1 was moving around with weapon and he was arrested by the police and only on the confession of A1, the petitioner was implicated. Insofar as the antecedents in respect of this petitioner/A2 is concerned, out of five cases registered against him, three cases ended in acquittal. Considering the above circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Kamuthi, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation



(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the 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]; and;

(f) if the accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
23/09/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

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

ORDER
IN
CRL OP(MD) No.9821 of 2020
Date : 23/09/2020

vsd
AE/JC/SAR-II (28.09.2020) 3P 5C