

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 19.02.2021

Orders Pronounced on : 02.03.2021

CORAM :-

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.Nos.198 and 1328 of 2021

J.Ananand [A3]

... Petitioner in Crl.O.P.No.198 of 2021

-Versus-

The State Rep. by

The Inspector of Police,
T.R.Pattinam Police Station,
Karaikal, Pondicherry.

[Crime No.138 of 2020] ... Respondent in Crl.O.P.No.198 of 2021

PRAYER in Crl.O.P.No.198 of 2021: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest in Crime No.138 of 2020 pending investigation on the file of the respondent police.

1.D.Ezhilarasi @ Meena [A1]

2.Vikraman @ Vikram [A2]

... Petitioners in
Crl.O.P.No.1328 of 2021

-Versus-

The State Rep. by

The Inspector of Police,
T.R.Pattinam Police Station,
Karaikal, Pondicherry.

[Crime No.138 of 2020] ... Respondent in both
Crl. Original Petitions

PRAYER in Crl.O.P.No.1328 of 2021: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest in Crime No.138 of 2020 pending investigation on the file of the respondent police.

For petitioner(s) : Mr.R.Vivekananthan for
petitioner in
Crl.O.P.No.198 of 2021
Mr.S.Illamvaludhi for
petitioners in
Crl.O.P.No.1328 of 2021
For respondent(s) : Mr.V.Balamurugane,
Public Prosecutor for
Puducherry in both
Crl.O.Ps.

COMMON ORDER

(The case has been heard through video conference)

The petitioners in both the petitions apprehending arrest at the hands of the respondent police in connection with the case in Crime No. 138 of 2020 for the alleged offence under Sections 386 and 506(ii) r/w 34 of IPC have come forward with these petitions seeking anticipatory bail.

2. I have heard the learned counsel for the respective petitioners and the learned Public Prosecutor (Puducherry) for the respondent and also perused the records carefully.

3. The de facto complainant is the son of one Ramu @ Radhakrishnan. The said Ramu @ Radhakrishnan was running a Bar at Karaikal, Puducherry along with one Siva Kalimuthu. A1 in this case said to have had illicit intimacy with the said Ramu @ Radhakrishnan. In the year 2013, Ramu was murdered by his wife Vinodha. Thereafter, in retaliation, A1 said to have employed hooligans and murdered on Ayyappan who was working as Accountant under the said Ramu @ Radhakrishnan. While so, A1 was also implicated in yet another case of murder of one V.M.C.Sivakumar, a former Deputy Speaker and a MLA in Puducherry Union Territory. Thus, three murders cases are pending against A1.

4. A3 in this case is none other than the brother of the deceased Ramu @ Radhakrishnan and he was also said to have developed illicit intimacy with A1. The allegation is that A1 had started threatening the de facto complainant and his brother, who are minors and by putting the de facto complainant, his younger brothers and grand parents under fear of threat to their lives, obtained the signature of their grand father who was acting as guardian of the minors forcibly and by using the same, inducted A1 as a partner in the Bar business. Hence, a case has been registered on the complainant from Ajesram, the de facto complainant. Now, seeking anticipatory bail, this petition has been filed.

5. The respondent police filed a detailed counter opposing grant of anticipatory bail to the petitioners. The respondent police inter alia contended that the petitioners had criminally intimidated the de facto complainant and his family members with dire consequences and by putting them under fear of death, A3 said to have obtained their signatures forcibly so as to induct A1 as a partner in the bar business left behind by the deceased, the father of the de facto complainant. It is further stated that the petitioners have got bad antecedents. Earlier, A1 was implicated in the murder case of Vinodha, wife of the deceased Ramu @ Radhakrishnan and mother of the de facto complainant, for which a crime was registered in Crime No.08 of 2013 for offence under Section 302 of IPC. While so, she was implicated in another murder case involving one Ayyappan, who was working as Accountant under the deceased Ramu @ Radhakrishnan. Thereafter, a former Deputy Speaker and a MLA was murdered by A1 in respect of which a crime was registered in Crime No.322 of 2015 on the file of Sirkazhi P.S. Tamil Nadu and the same is pending. Apart from the above, A1 is involved in three murder cases, one attempt to murder case, and three extortion cases, one case involving offences under the Explosives Substances Act, four cases of cheating, one case involving offence under Arms Act and two other cases involving IPC offences. A1 is a notorious criminal and a history sheeted rowdy element and she was detailed twice under the detention Act. If the petitioners are released on bail, they would repeat the offence and tamper with the witnesses and hamper the investigation.

6. The learned counsel appearing for the petitioners in CrI.O.P.No.1328 of 2021 submitted that the minors, represented by their grand father along with the other partner Siva Kalimuthu had voluntarily inducted A1 as a partner in the bar business and the same was also registered in February, 2019 and thereafter, the de facto complainant and his brothers have been getting their shares regularly. While so, all of a sudden, in December, 2020, at the instigation of the grand father of the de facto complainant and his minor bothers, the present complainant has been falsely foisted. According to the learned counsel, as of now, there is no material available on record to make out an offence neither under Section 386 of IPC nor under Section 506(ii) of IPC. The learned counsel further submitted that due to this dispute, the license of the bar has been suspended by the jurisdictional Executive Magistrate.

7. So far as A2 is concerned, according to the learned counsel, except the fact that he is closely associated with A1, there is no specific allegation made against him.

8. The learned counsel appearing for the petitioners in CrI.O.P.No.198 of 2021 submitted that A3 is the brother of of A1. Due to some family dispute between the parties, he has been falsely implicated in the case. The de facto complainant and his minor brothers had voluntarily inducted A1 as partner in the bar business and A1 has nothing to do with the alleged occurrence.

9. Per contra The learned Public Prosecutor vehemently opposed the petitions reiterating the averments made in the counter affidavit. According to him, if the petitioners are released on bail, there is likelihood of threatening the witnesses and repeating the similar offences. Further, according to him, the allegations levelled and the gravity of offence require custodial interrogation of the petitioners. Hence, prayed for dismissal of the petitions for anticipatory bail.

10. I have considered the rival submissions carefully.

11. The petitioners have been implicated for offence under section 386 and 506(ii) of IPC r/w 34 of IPC. According to the prosecution, after the death of the father of the de facto complainant, the de facto complainant and his two minor brothers have been inducted as partners in the bar business. A3 is none other than the brother of the deceased Ramu @ Radhakrishnan and uncle of the de facto complainant. The allegation is that A3 along with A1 and A2 with an intention to misappropriate the property of the deceased had obtained the signature of the grand father, who is the guardian of the minors forcibly by putting the de facto complainant, his minor brothers and grand parents under fear of death and by using the same A1 got inducted herself as a partner in the bar business.

12. Now, it is contended by the learned counsel appearing for A1 and A2 that A1 was inducted as a partner in the business long before the filing of the present complaint and only in order to wreck vengeance, this case has been falsely foisted against them. The back ground of the petitioners is relevant to be noted here, particularly, A1 in this case is said to be a history sheet rowdy element and she has got involvement in three different murder cases involving the mother of the de facto complainant and the Accountant of the deceased Ramu @ Radhakrishnan, the father of the de facto complainant and also a former Deputy Speaker and a MLA, who was said to have acted as a mediator to resolve a dispute between the parents of the de facto complainant. Both the parents of the de facto complainant were done to death. Therefore, the grandfather is acting as guardian of minor brothers of the de facto complainant. The allegation is that the petitioners threatened the de facto complainant, his minor brothers and grand parents with dire consequences and by putting them under threat of death, forcibly obtained the signature of their grand father and by using the same A1 got herself inducted into the partnership bar business as a partner with the help of A2 and A3. Considering the bad antecedents of the petitioners, this court is of the view that there is every reason, prima facie, to believe that the de facto complainant would have not chosen to approach the police immediately after the occurrence fearing of the petitioners and therefore, the delay might have been caused in giving complaint against the petitioner. The delay in giving the first information cannot be gone into by this court at this stage. Now, it is stated by the respondent that investigation is pending.

13. Considering the nature and gravity of offence and the bad antecedents of the petitioners and also the other facts and circumstances of the case, this court is of the prima facie view that if the petitioners are granted anticipatory bail at this stage, there is likelihood of tampering with the hampering the investigation and also indulging in heinous crime. Further, as rightly pointed out by the learned Public Prosecutor, the nature of allegations are such for which custodial interrogation may be necessary. Thus, it is not the fit case to consider the request for anticipatory bail and the petitions deserve only to be dismissed.

In the result, both the Criminal Original Petitions are dismissed.

-sd/-
02/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
KARAIKAL, PUDUCHERRY.

2 THE INSPECTOR OF POLICE,
T.R.PATTINAM POLICE STATION,
KARAIKAL, PONDICHERRY.

3 THE SPECIAL PUBLIC PROSECUTOR
PUDUCHERRY.

+1CC to M/S.R.VIVEKANANTHAN Advocate on payment of necessary charges SR NO.2676

+1CC to M/S.S.Illamvaludhi Advocate on payment of necessary charges SR NO.2675

CRL.OP.NOS.198 & 1328 OF 2021

Date :02/03/2021

MK:05/03/2021