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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2021

CORAM :

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

CrI.O.P.No.10762 of 2021

V.Tharagaraman

... Petitioner

Vs.

1. State rep. By
The Inspector of Police,
S-15, Selaiyur Police Station,
Chengalpattu District.

...Respondents

2. State rep by
The Inspector of Police/ Circle Officer,
Bhagwanpur Police Station,
Hardiwar District, Uttargand State.
(Crime No.303 of 2021)

PRAYER: Criminal Original Petition is filed under Section 438 of Cr.P.C., to grant an Interim Anticipatory Bail to the petitioner in the event of person, pending investigation in Crime No.303 of 2021 on the file of the 2nd respondent police.

For Petitioner : Mr.K.Maraimalai

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the 2nd respondent police for the alleged offence under Sections 420, 120, 274, 275, 276 of IPC and 17, 17A, 17B, 18, 18A, 27 of Drugs Act, in Crime No.303 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The petitioner who has been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, has approached this Court for Anticipatory Bail under Section 438 of Cr.P.C., so as to enable him to approach the appropriate Court.



3. The learned counsel for the petitioner submit that the petitioner was implicated for the offences under Sections 420, 120, 274, 275, 276 of IPC and 17, 17A, 17B, 18, 18A, 27 of Drugs Act , on the file of the Inspector of Police/ Circle Officer, Bhagwanpur Police Station, Hardiwar District, Uttargand State, who had issued summons to the petitioner for his appearance. He further submitted that this Court, in similar circumstances, has granted interim anticipatory bail to the accused to enable him seek appropriate Bail Orders from the concerned Court.

4. Heard the learned Government Advocate(Crl.Side) appearing for the State on the above submissions.

5. The issue as to whether, in respect of the persons who has been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of **S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras** reported in 1992 **L.W.(Crl).475**. After elaborate discussions, decisions and considering the ratio laid down by the **Patna High Court in Syed Safrul Hassan v. State**, the following order was passed:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

6. Thereafter, a learned Single Judge of this Court in the case of **P.Thangavelu and others v. State, rep. By the Inspector of Police and other** reported in 2017 (2) **MWN (Cr.) 633** has passed the following orders,



"9. Thus, it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

7. In view of the decisions supra, I am inclined to grant interim anticipatory bail to the petitioner. Accordingly, interim anticipatory bail is granted to the petitioner till 26.07.2021. The petitioner is directed to be enlarged on bail in the event of his arrest or on his appearance before the first respondent police on or before 26.07.2021 and on further condition that:

(i) the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



(ii) the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

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

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

TO

1 THE JUDICIAL MAGISTRATE,
TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
S-15, SELAIYUR POLICE STATION,
CHENGALPATTU DISTRICT.

4 THE INSPECTOR OF POLICE/ CIRCLE OFFICER,
BHAGWANPUR POLICE STATION,
HARDIWAR DISTRICT,
UTTARGAND STATE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.K.MARAIMALAI Advocate on payment of necessary charges

CRL OP.10762/2021

Date :23/06/2021

TA-16/07/2021