

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.11707 of 2021

1.Y.Pallakudurai
2.P.Shiravan
3.Sujatha

... Petitioners

Vs.

1.The State rep. by its
The Inspector of Police,
Pondy Bazzar Police Station,
Chennai District.

2.The State rep by its
The Inspector of Police,
City Market Police Station,
Chickpet, Bangaluru,
Karnataka.

... Respondents

Prayer:

Petition filed under Section 438 of Cr.P.C., seeking to enlarge the petitioners on bail in the event of their arrest in C.C.No.25773 of 2019 on the file of No.20.Additional Chief Metropolitan Magistrate Court, Bangalore, State of Karnataka.

For Petitioners : Mr.K.Rajendra Prasad

For Respondents : Mr.C.E.Pratap
for P.P.

O R D E R

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence Section 420 of IPC in C.C.No.25773 of 2019 on the file of the learned 20th Additional Chief Metropolitan Magistrate Court, Bangalore, State of Karnataka, seek anticipatory bail.

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

3.The case of the prosecution is that the defacto complainant initiated proceedings under Section 200 of Cr.P.C. r/w. 138 of the Negotiable Instruments Act before the learned 20th Additional Chief Metropolitan Magistrate Court, Bangalore, State of Karnataka, in C.C.No.25773 of 2019. Since the petitioners did not appear before the Court for the hearings, non bailable warrant was issued against them. Hence the petitioners have filed this petition.

4. The learned counsel for the petitioners would submit 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.

5. Heard the learned Government Advocate (Crl. Side) appearing for the State.

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if his arrest is sought within the jurisdiction of this Court, irrespective of the fact that he is a 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 has passed the following order:-

"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."

7. 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 Inerim 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."

8. In view of the decisions cited supra, I am inclined to grant interim anticipatory bail to the petitioners till 05.08.2021. Accordingly, interim anticipatory bail is granted to the petitioners till 05.08.2021. The petitioners are directed to be enlarged on bail in the event of arrest or on their appearance before the first respondent police and on further condition that:

(i) the Petitioners shall execute Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, 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, i.e., before 05.08.2021 the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-
08/07/2021

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 20TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE COURT,
BANGALORE, STATE OF KARNATAKA.

2 THE INSPECTOR OF POLICE,
PONDY BAZAAR POLICE STATION,
CHENNAI DISTRICT.

3 THE INSPECTOR OF POLICE,
CITY MARKET POLICE STATION,
CHICKPET, BANGALURU,
KARNATAKA.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.K.RAJENDRA PRASAD Advocate on payment of
necessary charges SR NO.7199

CRL OP.11707/2021

Date :08/07/2021

MK:13/07/2021