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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.14682 of 2021

AkashKaliyaperumal

... Petitioner

Vs.

1. State of Uttarakhand represented by
The Station House Officer,
Nanakmatta Police Station,
Udhamsingh Nagar, Uttarakhand,
Through its Public Prosecutor,
(Crime No.76 of 2019)

2. State of Tamilnadu represented by
The Station House Officer,
Thiruvengadu Police Station,
Mayiladuthurai, Tamil Nadu.

... Respondents

PRAYER: Criminal Original petition has been filed under Section 438 of Cr.P.C, prayed to enlarge the petitioner on interstate bail in the event of arrest by respondent police in Crime No.76 of 2019 on the file of the first respondent police.

For Petitioner : Mr.P.Parthiban

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

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 66B and 66C of Information Technology Act in Crime No.76 of 2021, on the file of the respondents police, seek 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 seeking the necessary relief.



3. The case of the prosecution is that the petitioner has applied for a new mobile connection in JIO telecommunications on 04.07.2020. He was allotted with mobile number " 8072105383" . It is further alleged that the above number was earlier used in Uttarakhand and has been involved in Crime No76 of 2019. Hence, the present complaint.

4. The learned counsel for the petitioner submits that the petitioner has implicated for the offences under Sections 66-B and 66C of Information Technology Act on the file of The Station House Officer, Nanakmatta Police Station, Udham Singh Nagar, Uttarakhand who had issued summons to the petitioner through the 2nd respondent for his appearance. He further submitted that this Court, in similar circumstances, had granted interim anticipatory bail to the accused to enable him to seek appropriate order from the concerned Court.

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

6. The issue as to whether, in respect of the person who has 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 the 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."

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 Petitioner herein till 20.08.2016. 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."

8. 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 20.10.2021. The petitioner is directed to be enlarged on bail in the event of his arrest or on his appearance before the second respondent police on or before 20.10.2021 and on further condition that:

(i) The Petitioner shall execute a separate 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 jurisdictional Court and file 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

TRUE COPY

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

TO

1 THE ADDITIONAL CHIEF
JUDICIAL MAGISTRATE, KHATIMA

2 THE STATION HOUSE OFFICER,
NANAKMATTA POLICE STATION,
UDHAMSINGH NAGAR, UTTARAKHAND
THROUGH ITS PUBLIC PROSECUTOR,
CRIME NO.76 OF 2019.

2 THE STATION HOUSE OFFICER,
THIRUVENGADU POLICE STATION,
MAYILADUTHURAI, TAMILNADU.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.P.PARTHIBAN Advocate on payment of necessary charges
Sr.8779

CRL OP.14682/2021

Date :18/08/2021

RVR 19/08/2021