



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19098 of 2021

IN S.T.No.603 of 2019

(ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA)

M/S.SHREE PRIYANKA KNIT FABS TIRUPPUR, [PETITIONER / ACCUSED]
REP BY. R.EASWARA MOORTHY (AUTHORIZED SIGNATORY)

Vs

1 THE SUPERINTENDENT OF POLICE [RESPONDENTS]
WAYNAD DISTRICT,
KERALA STATE.

2 STATE REP BY
THE INSPECTOR OF POLICE,
KALPETTA POLICE STATION,
WAYNAD DISTRICT,
KERALA STATE.

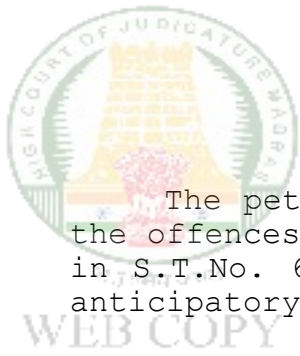
3 STATE REP BY
THE INSPECTOR OF POLICE,
ANUPARPALAYAM POLICE STATION,
TIRUPPUR DISTRICT.

For Petitioner : M/S M.N.BALAKRISHNAN Advocate

For Respondent : MR. C.E.PRATAP, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-



The petitioner, who is arrayed as accused, apprehends arrest for the offences punishable under Section 138 of Negotiable Instrument Act in S.T.No. 603 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The petitioner filed this petition under Section 438 Cr.P.C, 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, so as to enable him to approach the appropriate Court.

3. The case of the prosecution is that the petitioner received a summon for his appearance for the hearing on 17.09.2021 from Chief Judicial Magistrate Court, Kalpetta in S.T.C.No.603 of 2019 for offence under section 138 of Negotiable Instrument Act. Since the petitioner has not appeared before the above said court, the Hon'ble Court has issued Non Bailable Warrant against the petitioner by order dated 17.09.2021 and posted above case for the hearing on 17.12.2021.

4. The learned counsel for the petitioner would submit that the petitioner was implicated for the offences under Section 138 of Negotiable Instrument Act, on the file of the Inspector of Police, Kalpetta Police Station, Waynad District, Kerala State, in which, the Kerala police has 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.

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

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 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, this Court is inclined to grant interim anticipatory bail to the petitioner till 20.11.2021. Accordingly, interim anticipatory bail is granted to the petitioner till 20.11.2021. The petitioner is directed to be enlarged on bail in the event of arrest or on his appearance before the first respondent police 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) within the said period, i.e., before 20.11.2021 the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-

08/10/2021

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.III, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR DISTRICT. [FOR INFORMATION]

3 THE CHIEF JUDICIAL MAGISTRATE
KALPETTA.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT OF POLICE,
WAYNAD DISTRICT, KERALA STATE.



6 THE INSPECTOR OF POLICE,
KALPETTA POLICE STATION,
WAYNAD DISTRICT, KERALA STATE.

7 THE INSPECTOR OF POLICE,
ANUPARPALAYAM POLICE STATION,
TIRUPPUR DISTRICT

+1 CC to M/S M.N.BALAKRISHNAN Advocate on payment of necessary
charges SR.NO.11341

CRL OP.19098/2021

Date :08/10/2021

RW 02/11/2021