



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.L. O.P. No.25858 of 2021

A.Kutbuddin Bhai

...Petitioner

Versus

1.The State rep by its
The Inspector of Police,
B-1, Police station, North Beach,
Chennai - 600 001.

2.The State rep by its
The Inspector of Police,
Thana Kotwali Police Station,
Devas District,
Madhya Pradesh.
(Crime No.829 of 2021)

3. Hakimuddin Safdar Hussain Ali, ... Respondents

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, 1973 seeking to enlarge the petitioner on bail in the event of the arrest by the respondent police in Crime No.829 of 2021 on the file of the respondent police seeks Interstate anticipatory bail.

For Petitioner: Mr.Om Sai Ram

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor for R-1

ORDER

The petitioner, who apprehends arrest at the hands of the respondent-Police for the alleged offences under Sections 417, 420, 120-B IPC, in Crime No.829 of 2021, on the file of the respondent-Police, seeks anticipatory bail.

2. The petitioner, who had been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, had 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 main accused and de-facto complainant belong to the same community. It is alleged that the petitioner along with other accused, have shown fake purchase order for supply CT cables to Railway worth about Rs.2.28 Crores. Based on that purchase order, they have sought financial help from the 3rd respondent. The 3rd respondent's brother had extended the financial help, based on fake purchase order to the tune of Rs.2,62,00,000/-. Later, the 3rd respondent came to know that the purchase order is fake one and therefore, the third respondent lodged a complaint with the 2nd respondent-Police on the grounds of cheating and fabrication of records.

4. The learned counsel for the petitioner submitted that though the petitioner's name is not mentioned in the FIR, he has received the summons from the respondent-Police and hence, he apprehends arrest. He also further submitted that a marriage is also scheduled to take place in the family and therefore, he seeks for interim anticipatory bail to enable the petitioner to approach the concerned Court and seek the regular Anticipatory Bail. It is also stated that a civil suit is also pending between the parties. 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 Additional Government Pleader appearing for the first respondent-State.

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offences, committed beyond the territorial jurisdiction of the State of Tamil Nadu, and 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 a 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.(Cr1).475. After elaborate discussion, 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



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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 petitioner 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 petitioner 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 01.08.2016. The petitioner 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 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 petitioner 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 for a period of 4 weeks. Accordingly, interim anticipatory bail is granted to the petitioner for a period of 4 weeks. The petitioner is directed to



be enlarged on bail in the event of arrest or on his appearance before the 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 each, 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 27.01.2022, the petitioner shall surrender before the concerned jurisdictional Court and file appropriate application for regular bail before the said Court.

-sd/-
29/12/2021

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 VII METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
B-1, POLICE STATION,
NORTH BEACH, CHENNAI-600 001.

4 THE INSPECTOR OF POLICE,
THANA KOTWALI POLICE STATION,
DEVAS DISTRICT, MADHYA PRADESH.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.OM SAI RAM Advocate on payment of necessary charges
SR.NO.15695

CRL OP.25858/2021

Date :29/12/2021

CSK 04/01/2022