

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.03.2021

DELIVERED ON : 30.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.34420 of 2019

and

Crl.M.P.No.1107 of 2020

M.Karthiga Priyadarshini ... Petitioner

Vs.

1. The State represented by its
Assistant Commissioner of Police (North Range),
Tiruppur.
2. The Inspector of Police,
Tiruppur North Police Station,
Tiruppur.
(Crime No.658 of 2019) ... Respondents

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code seeking to release the petitioner on bail in the event of her arrest in Crime No.658 of 2019 on the file of the respondent police.

For Petitioner : Mr.H.Manivannan

For Respondents : Mr.S.Karthikeyan
Addl. Public Prosecutor

For Intervenor : Mr.R.Sankara Subbu,
for Mr.J.Franklin

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O R D E R

The petitioner is A1. Apprehending arrest at the hands of the respondent police for the alleged offence under Sections 294(b), 506(ii), 307, 120B of I.P.C. and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, on the file of the learned Principal District and Sessions Judge, Tiruppur in Spl.S.C.No.7 of 2020, the petitioner seeks anticipatory bail.

2. The case of the prosecution is that totally there are five accused and the petitioner is arrayed as A1. Based on the complaint dated 25.06.2019, given by the third respondent/defacto complainant herein, FIR has been registered by the second respondent in Crime No.658 of 2019 for offence under Sections 324, 294(b) and 506(ii) of IPC against two unnamed accused.

3. The allegation in the FIR was that, the defacto complainant is a practicing Advocate, on 25.06.2019, at about 08.00 p.m. somebody called the defacto complainant and wanted to discuss with him regarding a case and asked him to come near a departmental store at Uthukuli road, Tiruppur. The defacto complainant also went to the said place, only two persons came there in a motorcycle, abused the defacto complainant in filthy language and attacked him with wooden log. When he raised alarm, they ran away from the scene of occurrence, and he was admitted in a Government Hospital at Tiruppur, and based on his statement FIR has been registered.

4. Subsequently, on the further statement given by the defacto complainant, that the petitioner was a client of the defacto complainant, and requested him to issue a legal notice to one Mr.Senthilkumar, and also paid the fees. But the defacto complainant failed to issue legal notice in time, hence the petitioner approached A2 to murder the third respondent, and also gave Rs.20,000/- to him. Thereafter, A2 engaged A3 to A5 to complete the mission, pursuant to the same, A3 and A4 attacked the defacto complainant.

5. It is further stated that the defacto complainant belongs to a Scheduled Castes community, knowing that fully well all the accused have committed the offence, based on that the FIR was altered and the petitioner was implicated for the offence under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC / ST Act'). Thereafter the investigation was transferred to the file of the first respondent and a fresh investigation has been conducted. In the mean time, to quash the FIR, the petitioner has filed the present petition. Pending the same, investigation has been completed and final report was filed before the learned Principal District and Sessions Judge, Tiruppur and the same was also taken cognizance and pending in Spl.S.C.No.7 of 2020.

6. Today, this Court by an order dated 30.03.2021 in CrI.O.P.No.33356 of 2019, has quashed the offence under Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Hence, the petitioner now stood charged for offence under Sections 294(b), 506(2), 307 and 120B of I.P.C. Earlier an objection was raised that since the petitioner has been charged under Section 3(2)(v) of the SC / ST Act, the anticipatory bail petition is not maintainable. However, today the offence under Section 3(2)(v) of the SC / ST Act has been quashed and this petition is maintainable.

7. The learned counsel appearing for the petitioner submitted that the main overt act is attributed to A2 to A5. The petitioner has been implicated under Section 120B of IPC. The occurrence stated to have taken place in the year 2019, now the investigation is over and final report has also been filed and the matter is pending trial. The other accused were arrested and released on bail. Hence, the learned counsel prays for grant of anticipatory bail to the petitioner.

8. The learned Additional Public Prosecutor appearing for the respondent police stoutly opposed this petition stating that the petitioner has been implicated for the offence under Section 307 IPC and the petitioner has only instigated the other accused to attack the defacto complainant and they have no personal motive against the defacto complainant. He further submitted that the investigation has been completed and final report has been filed, and the case is pending trial.

9. Mr.R.Sankara Subu, learned counsel appearing for the intervenor stoutly opposed this petition. He submitted that the defacto complainant being a practicing Advocate, the petitioner is his client, engaged hirelings to attack the defacto complainant and the offence against the petitioner are serious in nature and hence opposed grant of anticipatory bail to the petitioner.

10. Considering the facts and circumstances of the case, and the fact that occurrence had taken place in the year 2019, the main overt act is attributed to A2 to A5 and the co-accused were arrested and released on bail. Thereafter now investigation has been completed, final report has been filed, hence, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions :

(a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Tiruppur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten

thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

(c) The petitioner shall appear before the trial Court on all hearing dates.

(d) The petitioner shall not tamper with evidence or witness either during investigation or trial.

(e) The petitioner shall not abscond either during investigation or trial.

(f) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

(g) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

11. With the above directions, this Criminal Original Petition is ordered. Consequently, the connected miscellaneous petition is closed.

-sd/-
30/03/2021

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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
NO.I, TIRUPPUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

4 THE ASSISTANT COMMISSIONER
OF POLICE (NORTH RANGE),
TIRUPPUR.

5 THE INSPECTOR OF POLICE
TIRUPPUR NORTH POLICE STATION,
TIRUPPUR.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.H.MANIVANNAN Advocate on payment of necessary charges
SR.No.4312

CRL OP.34420/2019
& CRL.MP.1107/2020

Date :30/03/2021

cs 15/04/2021



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