



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/03/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.16 of 2021

Vasimalai

... Petitioner/Accused No.1

Vs

The State Rep. by
The Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
Crime No.2239 of 2020.

... Respondent/Complainant

For Petitioner : Mr.Sumesh.S, Advocate
For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)
For Intervenor : Mr.Mithun Chakravarthi, Advocate

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

PRAYER :- For Anticipatory Bail in Crime No.2239 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A1, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147,148,447,294(b),323,324,506(ii) of IPC r/w.Section 4 of Tamil Nadu Exorbitant Charging Interest Act seeks anticipatory bail.

2. The case of the prosecution is that on 08.12.2020 at about 02.15 pm., the petitioner along with others trespassed into the defacto complainant building abused with filthy language and also assaulted him and also warned the defacto complainant to settle the payment with interest. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would also submit that the petitioner and the defacto complainant are the residence of the same village and due to some enmity the present case has been foisted against the petitioner. However, the petitioner has also filed an affidavit to the effect that he will not disturb the defacto complainant in any manner. The relevant para(5) is extracted here under:



"5. I most respectfully submit that there is no money transaction between me and the defacto complainant. I did not demand any amount or interest from the defacto complainant as alleged by him. Without prejudice to my right and contentions before the trial Court, I am hereby undertaking that I will not ask any amount from the defacto complainant and I will not harass or disturb the defacto complainant by demanding loan amount or interest in future "

4. The learned counsel for the intervenor/ defacto complainant would submit the defacto complainant had borrowed money from the petitioner herein for which for which he had already paid more than the amount rendered by the petitioner, whereas he is demanding exorbitant interest and the petitioner herein has also attacked the defacto complainant. Further the petitioner herein with the help of other accused had taken custody of the defacto complainant's vehicle and the same has not been handed over to him. He would also submit that the injured is still taking treatment and the accused persons are threatening to withdraw the complaint.

5. The learned Government Advocate(Crl.Side) would submit that 08.12.2020 at about 02.15 pm., the petitioner along with others trespassed into the defacto complainant building abused with filthy language and also assaulted him and also warned the defacto complainant to settle the payment with interest.

6.Taking into consideration the facts and circumstances of the case and also taking into consideration the affidavit filed by him, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Usilampatti, Madurai District on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner and 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;

(b)the petitioner is directed to comply with the undertaking given him, failing which the anticipatory bail granted shall stand cancelled automatically;

(c)the petitioner shall report before the respondent police as and when required for interrogation.

(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]**; and;

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

sd/-

02/03/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE No.I,
USILAMPATTI, MADURAI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
USILAMPATTI TOWN POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to Mr.S.SUMESH, Advocate (SR-1795[I] dated 04/03/2021)

ORDER IN

CRL OP(MD) No.16 of 2021

Date :02/03/2021

AAV

TE/JC/SAR-I : 05/03/2021 : 3P/6C

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