



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/02/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.701 of 2021

Marikani

... Petitioner/Accused No.9

Vs

The State Rep.by,
The Inspector of Police,
Uthumalai Police Station,
Tenkasi District
In Crime No.491/2020.

... Respondent/Complainant

For Petitioner : Mr.T.Indrachithu,
Advocate.

For Respondent : Mr.M.Ganesan,
Government Advocate (Crl.Side)

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

PRAYER :- For an Anticipatory Bail in Crime No.491 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

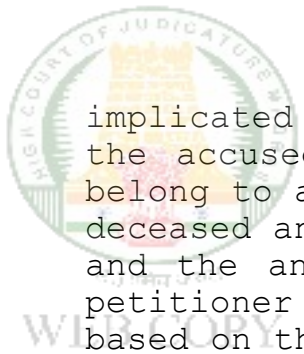
The petitioner, who apprehend arrest at the hands of the respondent police for the offence punishable under Section 302 of IPC seeks anticipatory bail.

2. Heard both sides.

3.The case of the prosecution is that on 22.11.2020 at about 08.00 p.m. Night hours, after informing the defacto complainant, who is the mother of the deceased, the deceased left his home for going shop. Since the deceased did not return home, the defacto complainant along with her husband and daughter searched him, with the help of torchlight and they heard a scream of the deceased from near one farm field and they rushed to the spot, where they seeing that the accused attacked the defacto complainant's son with aruval.

4.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely

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implicated in this case. He further submitted that the deceased and the accused persons belong to same community. But, the petitioner belong to another community. Further, there is no motive between the deceased and the petitioner. But, really motive between the deceased and the another group. He further submitted that the name of the petitioner does not found in the First Information Report. Only based on the confession statement of the first accused, his name has been implicated and hence, he prays to grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that there are totally 9 accused persons, in which, the petitioner is arrayed as accused No.9. Due to the dispute with regarding to graze the cattle, the first accused abused the defacto complainant with filthy language and along with other accused persons attacked him with aruval. In the present case, the petitioner herein, played a very important role by supplying aruval to the accused persons. He would further submit that the co-accused has also moved anticipatory bail application before this Court and the same was dismissed on merits and later, he was also arrested, as per the confession statement of the co-accused. Hence, he strongly opposed to grant anticipatory bail to the petitioner.

6. According to the learned counsel for the petitioner, there is no motive between the deceased and the petitioner and there is really motive between the deceased and the another group and as per the allegations made by the prosecution, the petitioner alleged to have supplied aruval for committing the crime. According to him, except the confession statement of the co-accused, no other materials are available to connect the petitioner with the crime.

7. Since the earlier bail application was dismissed by this Court, I called for the CD file and perusal of CD file shows that the co-accused has also moved anticipatory bail application before this Court and that was dismissed and later, he was also arrested, as per the confession statement of the co-accused.

8. It is seen that the petitioner alleged to have supplied aruval, which was alleged to have been used in the commission of offence. Moreover, it is seen that the petitioner was also involved in Crime No.147 of 2016 for the offence under Section 4 (1)(i) of TNP Act and Crime No.57 of 2020 for the offences under Sections 294 (b), 341 and 506 (ii) IPC on the file of the Utumalai Police Station. Since this is the case of murder, unless compelling circumstances are brought on record was observed earlier and no discretionary relief can be extended to the petitioner. So, in the facts and circumstance of the case, I find no change of circumstance and so, this Court is not inclined to grant anticipatory bail to the petitioner.



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9. Accordingly, this Criminal Original Petition is dismissed.

sd/-
04/02/2021

/ TRUE COPY /

/ /2021

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 INSPECTOR OF POLICE,
UTHUMALAI POLICE STATION,
TENKASI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.701 of 2021
Date : 04/02/2021

DSS
PK/JC/SAR-I/11.02.2021 : 3P/3C