



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

Date : 10/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2014 of 2021

M.Mervin Dani

... Petitioner/Sole Accused

Vs

The State of Tamil Nadu,
Represented by,
The Sub Inspector of Police,
Mandaikadu Police Station,
Nagercoil.
(Cr.No.27/2019) .

... Respondent/Complainant

For Petitioner : Mr.N.Dilip Kumar,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

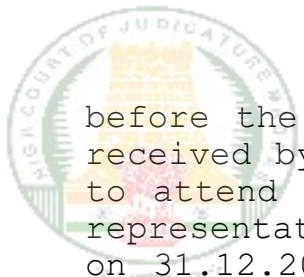
For Anticipatory Bail in Crime No.27/2019 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 447,294(b), 323 and 506(i) of IPC seeks anticipatory bail.

2. The case of the prosecution is that the petitioner herein trespassed into the house of the defacto complainant, abused, assaulted and also threatened with dire consequences. Hence the complaint.

3. The learned counsel for the petitioner would submit that initially petitioner was granted anticipatory bail by the learned Principal Sessions Judge, kanyakumari District at Nagercoil and after getting anticipatory bail the petitioner executed sureties and complying with the conditions. Thereafter the respondent police has sent summons to the petitioner under Section 41(A) to appear



before the respondent on 19.12.2020 at about 10.00 a.m., which was received by this on 19.12.2019 at 11.00 am., therefore he was unable to attend the enquiry. Thereafter the petitioner had sent detailed representation to the Superintendent of Police and the respondent on 31.12.2019 explaining the reason for not attending the enquiry. In the meanwhile the respondent police filed a petition under Section 437(5) to cancel the bail granted to the petitioner and the learned Magistrate has allowed the petition and cancelled the bail granted to the petitioner on 07.06.2019. He would further submit that the petitioner is ready to co-operate for enquiry and seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that due to some dispute regarding pathway the petitioner petitioner herein trespassed into the house of the defacto complainant, abused ,assaulted and also threatened with dire consequences. Earlier bail was granted by the lower court and the same was cancelled.

5.Taking into consideration the facts and circumstances of the case and also taking note of the fact that the petitioner will co-operate for enquiry this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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, Eraniel 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 shall report before the respondent police as and when required for interrogation.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)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;

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

sd/-
10/02/2021

/ 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 JUDICIAL MAGISTRATE, ERANIEL.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
- 3.THE INSPECTOR OF POLICE,
MANDAIKADU POLICE STATION, NAGERCOIL.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr.N.DILIP KUMAR, Advocate SR.No.905

ORDER
IN
CRL OP(MD) No.2014 of 2021
Date :10/02/2021

AAV
PK/JC/SAR-I/15.02.2021 : 3P/6C