



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.3326 of 2021

S.Muruganandham

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Pudhukottai Town Police Station,
Pudukottai,
Crime No. 197/2021..

... Respondent/Complainant

For Petitioner : Mr.Mariyappan.K.,
Advocate.

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

For Intervener : Mr.Mathavan
Advocate

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

PRAYER :-

For Anticipatory bail in Cr.No. 197 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is the sole accused, apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 323, 457, 380 and 506(ii) of IPC, in Crime No.197 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a practicing advocate viz., M.Kanagarethinam, at Pudhukottai and the petitioner took the bundles of his case from the defacto complainant's office on 27.02.2021. Hence, the present complaint.

3.Heard the learned counsel appearing for the petitioner and the intervener/defacto complainant and the learned Government Advocate (Crl.Side) appearing for the respondent.

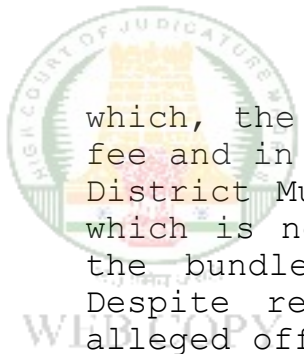


4.The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case. The petitioner had engaged one Kanagarethinam, who is a practicing Advocate, to defend his case in S.T.C.No.109 of 2020, S.T.C.No.337 of 2019 and S.T.C.No.495 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Thirumayam, Pudhukottai District. Since the petitioner is not satisfied with the service rendered by the defacto complainant, he asked the defacto complainant to return back fees and also all the case bundles. It was not agreeable by the defacto complainant. Due to which, the petitioner had also made a complaint about the same to the learned District Munsif Cum Judicial Magistrate, Thirumayam, in this regard on 25.02.2021. Thereafter, the learned Judicial Magistrate has directed the defacto complainant to hand over the case bundles to the petitioner, and thereafter, on 01.03.2021, the defacto complainant has handed over all the case bundles to the petitioner. He further submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned counsel appearing for the intervener/defacto complainant strongly opposed and contented that the defacto complainant is none other than a practicing Advocate in Thirumayam, and the petitioner was a client with the defacto complainant. The petitioner has not known the procedure and made a false complaint, as though the defacto complainant had not taken proper and effective steps in conducting the cases of the petitioner. Further, the petitioner is a rowdy element, who got four previous cases, out of which, two cases are similar in nature, in crime No.65 of 2019 for the offence under Sections 379, 294(b), 506(i), 120B, 411 and 420 of IPC and in Crime No.115 of 2020 for the offence under Sections 294 (b) and 506(ii) of IPC and Section 4 of TNPWH Act. Further he is also having two previous cases in C.S.R.No.528 of 2020 for attacking his father and in C.S.R.No.22 of 2021 for attacking his own uncle. He further submitted that now the petitioner had broken the defacto complainant's office and taken back a sum of Rs.81,000/- which was kept in the office and also three cases bundles. Hence, he strongly opposed to grant of anticipatory bail.

6.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that there is a dispute between the Advocate and his client and thereafter, the petitioner has also lodged a complaint before the District Munsif Cum Judicial Magistrate, Thirumayam, against the defacto complainant. On receipt of the complaint from the defacto complainant, the case has been registered and investigation is in progress.

7.On perusal of the materials available on records, it is seen that the defacto complainant had appeared for the petitioner for services and there was some misunderstanding between them, in



which, the petitioner asked to return back all the case bundles and fee and in this regard, the petitioner had lodged a complaint to the District Munsif Cum Judicial Magistrate, Thirumayam, on 25.02.2021, which is not in dispute. On the complaint given by the petitioner, the bundles were handed over to the petitioner on 01.03.2021. Despite return of the bundle, the petitioner had committed the alleged offence. It is admitted by the learned counsel appearing for the defacto complainant that the complaint was given to the learned Magistrate on 25.02.2021 and the bundle was already handed over on 01.03.2021 to the petitioner.

8. In view of the same, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thirumayam, Pudukottai 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 shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, 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;

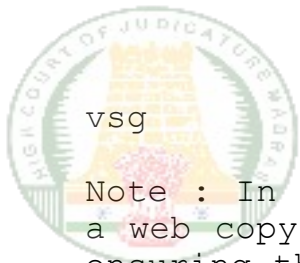
(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down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

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

sd/-
11/03/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



vsg

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,
THIRUMAYAM,
PUDUKOTTAI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI.
- 3 THE INSPECTOR OF POLICE
PUDHUKOTTAI TOWN POLICE STATION,
PUDUKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.MARIYAPPAN Advocate SR.No.2031

ORDER

IN

CRL OP(MD) No.3326 of 2021

Date :11/03/2021

NR/PN/SAR-I(18.03.2021) 4P:6C