



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

Date : 15/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3949 of 2021

M.Manikalai

... Petitioner/Accused No.9

Vs

State rep.by,
The Inspector of Police,
Austinpatti Police Station,
Madurai District,
Cr.No.1747 of 2020.

... Respondent/Complainant

For Petitioner : Mr.P.Senguttuarasan,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

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

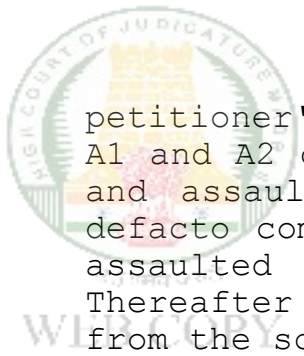
PRAYER :-

For Anticipatory Bail in Crime No.1747 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A9, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 302, 324, 506(ii), @ 302, 324, 506(ii) 147, 148, 115, 120(b), 212 of IPC seeks anticipatory bail.

2. The case of the prosecution is that on 15.09.2020 the defacto complainant Sivakumar son of the deceased while he was taking treatment at the Government Hospital, Thiruparankundram at about 09.30 pm., gave statement to the respondent police stating that during the year 2009 he got married to his relative Kalaiselvi and they have nine years old girl child. After marriage during the year 2013 they had some dispute between them and they were living separately. His estranged wife was residing with her parents from in the year 2014 the defacto complainant had filed divorce petition before the Family Court, Madurai . Thereafter a case in counter has been registered as regards the assault committed by both the families. This being the case on 15.09.2020 at about 7.45 pm., the



petitioner's father Sivalingam was in the cement shop at that time A1 and A2 came in a two wheeler picked up quarrel with their father and assaulted him using knife and cut him indiscriminately. The defacto complainant and his mother went to his but they were also assaulted and one Villager namely Mr.Palani was also assaulted. Thereafter the assailants namely A1 and A2 threatened them and fled from the scene of occurrence. Hence a case came to be registered.

3. On receipt of the complaint the Inspector of Police visited the scene of occurrence on the same day, prepared observation mahazhar, rough sketch, examined the witnesses, seized the two wheeler left by the assailants. On 16.09.2020 inquest was conducted and the body was sent for post mortem and the injured were examined. During examination the motive for assault was confirmed and thereafter during investigation it was found that earlier a case in counter was registered in Crime Nos.107 of 2015 and 108 of 2015 between the families of the defacto complainant and the assailants due to which A1 and A2 along with A3 to A10 conspired and planned to eliminate the deceased and also abetted the assailants. During investigation it was found that A3 and A5 were present near the scene of occurrence and A4 to A6 were ready with the two wheeler to facilitate their escape after the murder.

4. Hence the first alteration report was filed on 16.09.2020. Thereafter A3,5 and 6 were arrested on 21.09.2020. A1 and A2 were arrested on 23.09.2020. On the arrest of these accused confession was recorded and recoveries were made. In the confession the role played by each accused namely A2 to A10 who involved in the conspiracy and A11 to A13 who harboured the assailants and facilitated the assailants to escape from the case came to light. The two wheeler and the car used by the assailants were seized and thereafter the second alteration report was filed on 23.09.2020

5. 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 some of the co-accused in this case was released on bail and some of them were granted anticipatory bail by this Court.

6. The learned Government Advocate(Crl.Side) would submit that A1, A2 and A3 in this case were arrested on 24.09.2020,24.09.2020 and 21.09.2020 and granted bail by this Court, A4 in this case was in judicial custody, A5 and A6 was arrested by this Court on 21.09.2020 and granted bail by this Court, A10 was arrested on 17.10.220 granted bail by the learned Judicial Magistrate, Thirumangalam, A11 was arrested on 12.10.2020 and granted bail by this Court. He would also submit that from the confession of the co-accused it is seen that A1 to A10 planned and committed the murder of the father of the defacto complainant and A11 to A13 promised to give money and arrange vehicles. Hence all the accused persons conspired together



7. Taking into consideration the facts and circumstances of the case and also taking note of the fact that some of the co-accused in this case was released on bail and some of them were granted anticipatory bail by this Court this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. 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, Thirumangalam 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;

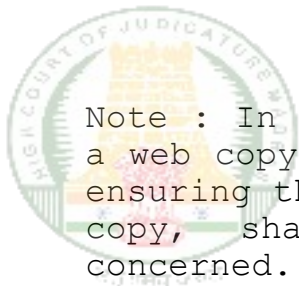
(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down 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/-
15/03/2021

/ 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.

WEB COPY

1.THE JUDICIAL MAGISTRATE, THIRUMANGALAM

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

3.THE INSPECTOR OF POLICE,
AUSTINPATTI POLICE STATION,
MADURAI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.SENGUTTUARASAN P Advocate SR.No.2184

ORDER
IN
CRL OP(MD) No.3949 of 2021
Date :15/03/2021

AAV

PK/SMA/SAR-II/18.03.2021 : 4P/6C