



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

Date : 22/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.4367 of 2021

Merbin Dhas ... Petitioner/Accused No.1

Vs

The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District,
Kanyakumari.
Crime No. 73 of 2021.

... Respondent/Complainant

For Petitioner : Mr.T.Lajapathi Roy,
Advocate.

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

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

PRAYER :-

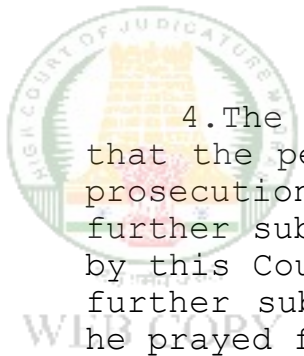
For Anticipatory Bail in Crime No.73 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 332, 353 and 307 of IPC, in Crime No.73 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 Grade-I Police Constable at Padmanabhapuram. When the defacto complainant signaled to stop the vehicle, the rider of the bike has not stopped the bike. At that time, the petitioner and other accused were said to have abused the defacto complainant and kicked him as well as the Sub Inspector of Police, due to which, they sustained injuries. Hence, the present complaint.

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



4.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that A2 has already been granted anticipatory bail by this Court in Crl.O.P.(MD).No.3401 of 2021, dated 09.03.2021. He further submitted that he is not having any bad antecedent. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that there is no previous case pending against the petitioner and the injured person has already been discharged from the hospital.

6.It is seen that when the defacto complainant has conducted road check, the rider of the bike had not stopped. At that time, the defacto complainant and the Sub Inspector of Police were said to have attempted to stop them, due to which, the occurrence said to have taken place. Thereafter, the defacto complainant had gone to Muthu Neuro Centre and taken treatment. In this regard, CT scan and AR copy have been produced by the respondent Police.

7.Considering the facts and circumstances of the case and also considering the fact that there is no previous case pending against the petitioner and the injured person has already been discharged from the hospital and co-accused has already been 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 two weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court No.I, Padmanabhapuram, Kanyakumari, 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;

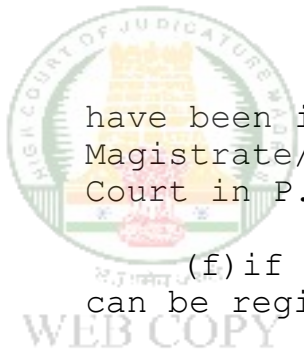
(b)the petitioner shall report before the respondent police as and when required for interrogation.

(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

<https://hccs.courts.gov.in/hccs/portal/> 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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
22/03/2021

/ 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.

TO

1. THE JUDICIAL MAGISTRATE NO. I,
PADMANABHAPURAM.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION,
KANYAKUMARI DISTRICT, KANYAKUMARI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr. T. LAJAPATHI ROY, Advocate SR.No.2397

ORDER
IN
CRL OP(MD) No.4367 of 2021
Date : 22/03/2021

VSG
PK/SMA/25.03.2021 : 3P/6C