



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

Tuesday, the Twenty Seventh day of April Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) No.5476 of 2021

M.Dhanasekaran

... Petitioner/Sole Accused

Vs.

The State Rep.by its,  
The Sub Inspector of Police,  
Velayuthampalayam Police Station,  
Karur District.  
(Crime No.697 of 2020)

... Respondent/Complainant

For Petitioner : Mr.Prabha.S,  
Advocate.

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

For Intervenor : Mr.A.Sivasubramanian

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

PRAYER :-

To Anticipatory Bail in Crime No.697 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as an accused, apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 294(b), 323, 324 and 506(i) of IPC, in Crime No.697 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 25.11.2020 at about 9.40 a.m. the defacto complainant went to one deceased/Palanisamy's house to convey the condolence to the deceased family, there was a wordy quarrel between the petitioner and the defacto complainant. The petitioner had bitten the defacto complainant's right hand and also kicked his private part and caused injury. Hence, the complaint.



3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he seeks anticipatory bail to the petitioner.

4.The learned counsel for the intervenor/defacto complainant strongly opposed this petition on the ground that the petitioner filed a petition for anticipatory bail before the learned Sessions Court, Karur in CrI.M.P.No.164 of 2021. It is seen from the Medical Report that the petitioner is an HIV patient. Hence, the Court below directed the respondent police to alter the offence but it has not been altered so far. Therefore, he strongly opposed to grant anticipatory bail to the petitioner.

5.The learned Government Advocate (CrI.Side) appearing for the respondent Police submitted that the injured has already been discharged from the hospital. So far there is no alteration in the section registered in this case.

6.Consideration of materials produced before this Court shows that there is no specific allegation in the FIR and that the petitioner is a HIV patient and he bit the defacto complainant. When this court enquired the defacto complainant as to what is the health condition of the defacto complainant and if any test is conducted on him with regard to communication of HIV virus to the defacto complainant, because of his being bitten by the petitioner, the learned counsel for the intervenor submitted that so far defacto complainant has not taken any such test. The occurrence happened in the year 2020 but the defacto complainant has not taken any test to find out as to whether any HIV virus is communicated to him. Petitioner is fine now.

7.Considering the facts and circumstances of the case and considering the fact that except the offence under Section 506(i) IPC, all other offences are bailable in nature and the fact that the injured person has already been discharged from the hospital, 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 on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Karur, 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 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 respondent police daily at 10.30 a.m. until further orders;

[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]**.

[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-  
27/04/2021

/ 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.II, KARUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE  
VELAYUTHAMPALAYAM POLICE STATION KARUR DISTRICT .
- 4 THE ADDL. PUBLIC PROSECUTOR  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.PRABHA.S. Advocate SR.No.3474  
ORDER

IN

CRL OP(MD) No.5476 of 2021  
Date :27/04/2021