



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/04/2021

PRESENT

The Hon`ble **Mr.Justice G.CHANDRASEKHARAN**

CRL OP(MD) . No.5736 of 2021

Sharma ... Petitioner/Sole Accused

Vs

State rep by
The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
Cr.No. 104 of 2021.

... Respondent/Complainant

Robin Xavier ... Petitioner/Defacto Complainant
in CRL MP(MD)No.3471 of 2021

For Petitioner : Mr.Sarankumar A,
Advocate.

For Respondent : Mr.M.Ganesan
Government Advocate (Crl.Side)

For Intervener : MR.S.R. SATHAN BOOPATHY,
Advocate.

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

PRAYER :-

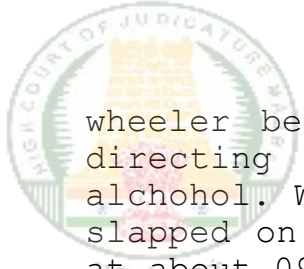
For Anticipatory Bail in Crime No.104 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 341, 294 (b), 323 and 506 (ii) of IPC in Crime No.104 of 2021 on the file of the respondent police, the petitioner has come forward with this petition seeking anticipatory bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent police.

3. It is seen from the submissions made that on 05.04.2021, at about 08.00 p.m., when the defacto complainant's son was returning home after purchase of certain things, the petitioner came in a two



wheeler bearing Registration No.TN-74-AK2 and started scolding him directing to get mixture pocket and pickle pocket for consuming alcohol. When the defacto complainant's son refused, the petitioner slapped on his left cheek and caused injury. On the very next day, at about 09.00 a.m., when the defacto complainant's son informed the father of the petitioner about the conduct of the petitioner, the petitioner came and scolded him in filthy language and criminally intimidated him that if he complains, he would be killed by hitting with his two wheeler.

4.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and the petitioner has been falsely implicated in the present case and hence, he seeks anticipatory bail. He would further submit that he defacto complainant is an Advocate and therefore, he is exaggerating the events and gave a false complaint against the petitioner.

5.On the other hand, the learned counsel for the intervener strongly opposed this petition on the ground that he has previous case pending against him.

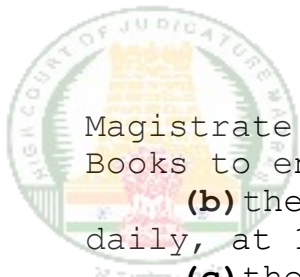
6.The learned Government Advocate (criminal side), on instructions, submitted that the petitioner has one previous case in Crime No.512 of 2020 under Sections 147, 148, 294 (b), 448 and 506 (ii) of IPC pending. Therefore, he opposes this petition.

7.The learned counsel for the petitioner submits that there is a resolution passed by Nagercoil Bar Association that no Advocate from Nagercoil Bar Association should appear for the petitioner and therefore, he requests this Court to direct the petitioner to comply with the conditions before the Judicial Magistrate, Valliyoor.

8.Considering the facts and circumstances of the case, the fact that the except 506(ii), all other offences are bailable offences and though the petitioner has previous case pending, the nature of the incident in this case does not require custodial interrogation of the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Taking note of the submissions made by the learned counsel for the petitioner, 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, Valliyoor, and on his executing 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 learned Magistrate concerned and on further conditions 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 cards or Bank pass Books to ensure their identity;

(b) the petitioner shall report before the 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]**; and

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

sd/-

27.04.2021

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

SM

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, VALLIYOOR.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE.
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
RAJAKKAMANGALAM POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.A.SARAVANAKUMAR, Advocate (SR-3451[I] dated 28/04/2021)

ORDER
IN

CRL OP(MD) No.5736 of 2021
Date:27/04/2021