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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on	Pronounced on
14.07.2021	16.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.9172 of 2021

1. SUNDARAJAN
2. VINOTH,
   S/O.PITCHAI.
3. VINOTH,
   S/O.RAJASEKARAN. ... PETITIONERS/ACCUSED

Vs

STATE REPRESENTED THROUGH,
THE INSPECTOR OF POLICE,
EMANESWARAM POLICE STATION,
RAMANATHAPURAM.
CRIME NO. 121/2021 ... RESPONDENT/COMPLAINANT

For Petitioner : Mr.N.Shyllappa Kalyan
Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-
For Anticipatory Bail in Crime no. 121 of 2021 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioners/accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act r/w Sections 294(b), 353, 324, 323, 506(2) I.P.C., in Cr.No.121 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant belongs to Hindu Pallar Community. He is working as a salesman in TASMAC No.6807. On 30.04.2021, at about 03.00p.m., when he was serving liquor, three persons came in a motorcycle and asked for

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beer bottles. He told that that beer bottles are not available and only Beer tins are available. They scolded him in filthy language and asked him why he is running shop, without beer tins. They tried to get into the shop. The defacto complainant pushed them out. They took an empty beer bottle and tried to attack him. The defacto complainant moved from there and therefore, the beer bottle struck on the iron gate and broken. One Nagamoorthy, Ramaiah and Manikandan had come there for consuming alcohol. They questioned the accused, why they do like that. The accused Sundarrajan told that he belongs to Servar community from Thirupuvanam and attacked Nagamoorthi with empty beer bottle on his head. Padaiyappa and another accused attacked Nagamoorthi with reaper on his left hand and leg. Then they made criminal intimidation and escaped from there.

3. This case was registered under sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act along with other offences. The Registry raised an objection with regard to the maintainability of anticipatory bail petition. This matter was posted for hearing the learned Counsel for the petitioner on the maintainability of this petition.

4. The learned Counsel for the petitioners submitted that the judgment in ***Rahna Jalal Vs. State of Kerala and another*** reported in ***(2021)1 Supreme Court Cases 733*** for the proposition that even in the presence of Sections 18 and 18-A, the bar under these sections will not apply, if the complaint does not make out a *prima facie* case for the applicability of the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

5. A perusal of the allegations made in the complaint showed that there was only a reference that the defacto complainant belongs to Hindu Pallar Community. There is no specific allegation in the F.I.R., that there was an abuse or attack or any offence had been committed against the defacto complainant for the reason that he belongs to Hindu Pallar Community. Since no *prima facie* has been made out for registering this case under sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, this Court following the ratio laid down in ***Rahna Jalal Vs. State of Kerala and another*** reported in ***(2021)1 Supreme Court Cases 733,*** ordered this petition to be numbered for hearing and heard.

6. With regard to the merits of the case, the learned Counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case.

7. However, the learned Government Advocate (Crl.Side) appearing for the State opposes this petition on the ground that the petitioners had abused the defacto complainant in filthy language,

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who is a salesman in TASMAC shop NO.6807. Not only that, when they were questioned by the witness Nagamoorthy, he was attacked with empty beer bottle and reeper by the accused. As a result, he suffered injuries.

8. Considering the nature of the offence the victim was attacked with empty beer bottle and reaper and he suffered injuries and its seriousness, the fact that the investigation is not yet completed, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed.

sd/-
16/07/2021

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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 INSPECTOR OF POLICE
EMANESWARAM POLICE STATION,
RAMANATHAPURAM.

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

ORDER
IN
CRL OP(MD) No.9172 of 2021
Date :16/07/2021

SSL
RT/VR/SAR-IV/20.07.2021/3P/3C

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