



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

Date : 29.06.2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.8129 of 2021

and

CRL MP(MD)No.4315 of 2021

Xavier

... Petitioner/Sole Accused

Vs

State Represented by,
The Inspector of Police,
Ramjee Nagar Police Station,
Trichy District.
Crime No.258/2021

... Respondent/Complainant

For Petitioner : Mr.A.Thiyagarajan, Advocate

For Respondent : Mr.M.Muthumanikkam,
Counsel for Government of TamilNadu
(Criminal Side)

For Intervenor : Mr.T.A.Ebenezer, Advocate

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

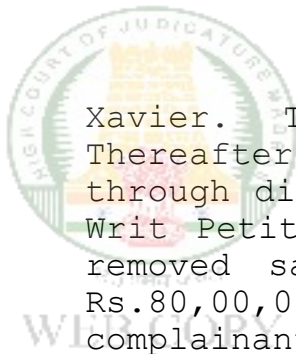
PRAYER :-

For Anticipatory Bail in Crime No. 258 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147 and 506(i) of IPC in Crime No.258 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a Social Activist. It is his case that the accused Xavier has been indulging in illegally removing sand from water bodies using Madha Tipper Lorry and Tractor Service. The accused is regularly doing the illegal business of taking and transporting sand from the water bodies. Therefore, the defacto complainant filed WP(MD) No.16029 of 2019 to prevent illegal mining and the Writ Petition came to be disposed of on 19.07.2019. Since then, the accused and his men were inimical towards the defacto complainant. On 13.07.2019, the defacto complainant sent petitions to Chief Minister and other higher Officials with regard to the illegal activities of



Xavier. The defacto complainant also filed WP(MD)No.2650 of 2019. Thereafter, the accused Xavier and his men threatened the petitioner through direct and indirect means and compelled him to withdraw the Writ Petition. It is his further allegation that the accused had removed sand illegally in Chettiyurani Village worth more than Rs.80,00,000/-. On 23.05.2021, at 05:00 pm, when the defacto complainant was waiting at Srirangam Revenue Divisional Office, the accused Xavier and 7 others came there and criminally intimidated to withdraw the case and threatened to kill him. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is nowhere involved in the alleged offence projected against him. He submitted that the defacto complainant is not a Social Activist and he has 3 Criminal Cases pending against him in Crime Nos.165 of 2017, 262 of 2021 and 47 of 2010. This is a motivated case and therefore, he seeks anticipatory bail to the petitioner.

4. The learned counsel for the intervenor opposed this petition on the ground that whatever said in the First Information Report is true. The defacto complainant is threatening the petitioner and therefore, the petitioner should not be released on anticipatory bail.

5.The learned Counsel for the Government of Tamil Nadu (Criminal Side) appearing for the respondent police opposed this petition on the ground that investigation is pending. He submitted that the petitioner has no previous case against him.

6. Taking note of the facts as narrated above, the fact that petitioner has no previous case pending against him and on the other hand, it is alleged by the petitioner that the defacto complainant has 3 previous cases and the case against the petitioner is only under Sections 147 and 506(i) of IPC, this Court is inclined to grant anticipatory bail to the petitioner.

7.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.III, Trichy 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



[b]the petitioner shall report before respondent police daily at 10.30 am., 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.

Consequently, the connected Miscellaneous Petition is closed.

sd/-
29/06/2021

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/ /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.III, TRICHY.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3.THE INSPECTOR OF POLICE,
RAMJEE NAGAR POLICE STATION, TRICHY DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD)No.8129 of 2021
and
CRL MP(MD)No.4315 of 2021
Date :29/06/2021

MBI

<https://hccr.cer.nic.in/Services/7.2021/3P/5C>