



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

Date : 27/07/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). Nos.9928 and 9938 of 2021

Vadivoo @ Sudalai Vadivu ... Petitioner/Accused No.2
in CRL.O.P.(MD)No.9928 of 2021

Santhanavel ... Petitioner/Accused No.1
in CRL.O.P.(MD)No.9938 of 2021

Vs

The State rep.by
The Inspector of Police,
Kalakad Police Station,
Tirunelveli District.
Crime No. 314 of 2021.. ... Respondent/Complainant
in both petitions

For Petitioner : Mr.V.S.KISHOK KUMAR,
(in both petitions) Advocate.
For Respondent : Mr.M.MUTHUMANIKKAM,
(in both petitions) Government Advocate (Crl.Side)

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

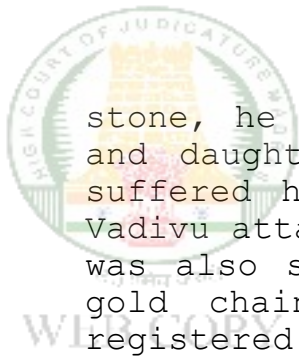
COMMON PRAYER :-

For Anticipatory Bail in Crime No.314 of 2021 on the file of
the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of
the respondent police for the alleged offences punishable under
Sections 294(b), 324, 506(ii) and 379 of IPC and Section 4 of Tamil
Nadu Prohibition of Harassment of Woman Act in Crime No.314 of 2021,
seek anticipatory bail.

2.The case of the prosecution is that there is a dispute
between the de-facto complainant and the accused Muthukumar in
connection with property and there was also a police complaint in
this regard. On 18.07.2021 at about 05.00 p.m., the accused
Santhanavel had broken it kadappa stone by using kadaparai, which
was right in the place of the de-facto complainant. When the de-
facto complainant questioned as to why he has broken the kadappa



stone, he scolded him in filthy language and also scolded his wife and daughters and also attacked with kadaparai. As a result, he suffered head injury. Then, the accused Muthukumar and his wife Vadivu attacked him with wooden log. The de-facto complainant's wife was also suffered injury. They also snatched three sovereigns of gold chain from his wife. Therefore, this case came to be registered.

3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case. He further submitted that there is a counter case in Crime No.315 of 2021 was registered under Section 294(b), 324 and 506(2) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002, on the basis of the complaint given by A2 against the de-facto complainant and others. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation in this case is not completed and one previous case is pending against A2 in Crime No.139 of 2021.

5.In response to this objection, the learned counsel for the petitioners submitted that the de-facto complainant, in this case, is the complainant in Crime No.139 of 2021 also, the petitioner/A2 was granted anticipatory bail in that case.

6.It is seen from the narration of the fact that the parties are neighbours and they have some property dispute. Due to that property dispute, they had been fighting between themselves, resulting in criminal case being registered. In the case before hand, the injured persons are said to have been discharged from the hospital. Therefore, this Court is inclined to grant anticipatory bail to the petitioner-Santhanavel with certain conditions.

7.Sofar as A2 is concerned, she already had a previous case in Crime No.139 of 2021. Therefore, this Court is not inclined to grant anticipatory bail to A2 and hence, the Criminal Original Petition in Crl.O.P.(MD)No.9928 of 2021 is dismissed.

8.Accordingly, the petitioner/A1 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 Court, Nanguneri, on condition that the petitioner/A1 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/A1 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/A1 shall report before the respondent police, daily at 10.30 a.m., until further orders;



[c]the petitioner/A1 shall not tamper with evidence or witness either during investigation or trial;

[d]the petitioner/A1 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/A1 in accordance with law as if the conditions have been imposed and the petitioner/A1 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/-

27/07/2021

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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 JUDICIAL MAGISTRATE,
NANGUNERI.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3.THE INSPECTOR OF POLICE,
KALAKAD POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1. CC to M/S.KISHOK KUMAR V.S. Advocate SR.No.4924

ORDER IN

CRL OP(MD) No.9928 of 2021
and 9938 of 2021

Date :27/07/2021

SA/JM/SAR.1/02.08.2021/3P/6C

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