



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 30/07/2021

PRESENT

WEB COPY

THE HON`BLE MR.JUSTICE G.CHANDRASEKHARAN

CRL OP(MD). No.10155 of 2021

1.Mariya Ennaci
2.John Pillai @ John Moduthangam
3.Anish @ John Joseph Anish
4.Aamosh
5.Baastin @ Anthony Baastin ... Petitioners/Accused No.1 to 5

Vs

The State rep.by,
The Inspector of Police,
Koodangulam Police Station,
Tirunelveli District.
(Crime No.297 of 2021) ... Respondent/Complainant

For Petitioners : MR.S.Saravana Kumar,
Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

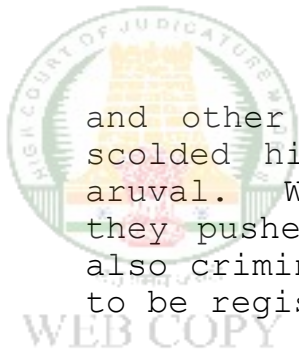
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory bail in Crime No.297/2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 to A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 341, 294(b), 323, 307 and 506(ii) of IPC, in Crime No.297 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is engaged in fishing in sea. The accused Maniya Innasi used to stare upon him whenever he saw him without any reason. One month before when the defacto complainant was going in front of the first accused Mariya Innasi house he again stared at him. Two days later when he was going near Michael Ayya Church he again stared him. When his grand father Mariya Siluvai was crossing Mariya Innasi house he told him that he would kill the defacto complainant. This was informed to him by his grand father. On 20.07.2021 at about 08.00 pm., when the defacto complainant was approaching Kithaeri Mariya Innasi, John Pillai, Anis, Amoosh, Bastin



and other 5 or more person with aruval , sticks waylaid him , scolded him in filthy language. Mariya Innasi attacked him with aruval. When he evaded the attack fell on his left forearm. Then they pushed him down and attacked him with sticks and hand. They also criminally intimidated and escaped. Therefore, this case came to be registered.

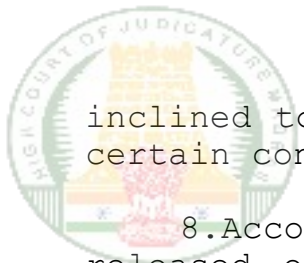
3.The learned counsel for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that even in the First Information Report there is no specific allegation with regard to the motive for the incident. It is the case that the defacto complainant used to see women taking bath during night time. It was also informed to his parents. On the date of incident the defacto complainant attempted to go near bathroom of the petitioners house, the petitioners notice it and then the defacto complainant jumped over the wall and escaped. It is only a false case, hence he seeks anticipatory bail.

4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation is pending. He would also submit that 10 previous cases are pending against the first petitioner, four previous cases are pending against the second petitioner and two previous cases are pending against the fifth petitioner.

5.As seen from the narration of the facts and in the First Information Report that though there is no specific motive stated in the First Information Report it is stated that the first accused used to stare upon the defacto complainant whenever he saw him. He also told the grand father of the defacto complainant that he would kill the defacto complainant. This incident had happened on 20.07.2021. Though it is alleged by the learned counsel for the petitioners that the defacto complainant used to see women taking bath in the night time, it appears that no complaint has been given against him. Whether there is motive or not the fact remains that the accused said to have attacked the defacto complainant and caused injuries. Injured has been discharged from the hospital

6.Considering the fact that 10 previous cases are pending against the first petitioner, four previous cases are pending against the second petitioner and two previous cases are pending against the fifth petitioner , this Court is not inclined to grant anticipatory bail to the petitioners 1, 2 and 5 hence the petition stands dismissed against them alone.

7.Taking note of the fact and circumstances of the case and the fact that the injured has been discharged from the hospital and also the fact that except 307 and 506 (ii) of IPC, all other offences are bailable offences and also the fact that no previous cases are pending against the petitioners 3 and 4, this Court is



inclined to grant anticipatory bail to the petitioners 3 and 4 with certain conditions.

8. Accordingly, the petitioners 3 and 4 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Radhapuram on condition that the petitioners 3 and 4 shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 petitioners 3 and 4 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 petitioners 3 and 4 shall report before the respondent police, daily at 10.30 a.m., until further orders;

[c] the petitioners 3 and 4 shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners 3 and 4 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 petitioners 3 and 4 in accordance with law as if the conditions have been imposed and the petitioners 3 and 4 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/-
30/07/2021

/ 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.

<https://hcservices.ecourts.gov.in/hcservices/>



TO

1 THE JUDICIAL MAGISTRATE,
RADHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

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

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

ORDER

IN

CRL OP(MD) No.10155 of 2021

Date :30/07/2021

AAV

MK/JM/SAR.II/04.08.2021/4P/5C