



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

Date : 20/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12670 of 2021

Johnson

... Petitioner/Accused No.1

Vs

The State Rep.by
The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.
Crime No.374 of 2021.

... Respondent/Complainant

For Petitioner : Mr.P.Kannan,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No.374 of 2021 on the file of the Respondent Police.

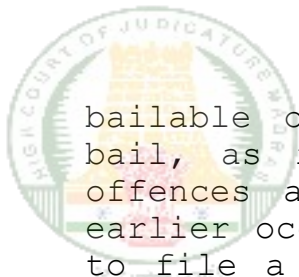
ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC, in Crime No. 374 of 2021 on the file of the respondent Police, seeks anticipatory bail.

2. According to the learned counsel for the petitioner, except the offence under Section 506(ii) IPC, other offences are bailable in nature.

3. A perusal of the FIR would reveal that the defacto complainant was assaulted with an iron rod and cricket bat.

4. This Court, in order to ascertain the nature of injuries sustained by the defacto complainant, directed the learned Government Advocate (Crl. Side) to verify the same. After verifying the same, the learned Government Advocate (Crl. Side) reported that the victim has suffered fracture on his both hands. Though the victim has suffered fracture on his both hands, the respondent Police have not altered the offence, but treated the same as a



bailable offence and facilitated the accused to get anticipatory bail, as if except the offence under Section 506(ii) IPC, other offences are bailable in nature. Therefore, this Court, on the earlier occasion, i.e on 15.09.2021, directed the respondent Police to file a report as to the delay in altering the offence and the date on which, the offence has been altered by the respondent Police. Thereafter, it appears that on 16.09.2021, the offence under Section 324 IPC has been altered into Section 326 IPC and the victim has been discharged from the hospital on 17.09.2021.

5. The respondent Police has received an intimation from the Sivagangai Government Medical College and Hospital on 02.08.2021 and after recording the statement of the defacto complainant, who was taking treatment as in-patient in Sivagangai Government Medical College and Hospital, registered the case in Crime No.374 of 2021 on 02.08.2021.

6. When the statement has been recorded from the defacto complainant, who was taking treatment in Sivagangai Government Medical College and Hospital, it would be known to the Officer, who recorded the statement of the defacto complainant that he has suffered grievous injuries. Despite that, it has been projected as if the victim has suffered simple injuries and the offences are bailable in nature.

7. Considering the fact that the victim has suffered fracture on his both hands, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the Criminal Original Petition is dismissed.

8. Considering the conduct of the concerned Officer, who registered the FIR projecting as if the victim has suffered simple injuries, though the victim has suffered fracture on his both hands, this Court thinks it fit to refer the matter to the Superintendent of Police, Sivagangai.

9. The Superintendent of Police, Sivagangai, shall enquire into the issue and initiate proper action against the concerned Police Officer, who suppressed the material facts before this Court.

sd/-
20/09/2021

/ 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.



TO

1 THE INSPECTOR OF POLICE,
KALAYARKOVIL POLICE STATION,
SIVAGANGAI DISTRICT.

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

COPY TO;
THE SUPERINTENDENT OF POLICE,
SIVAGANGAI.

ORDER
IN
CRL OP(MD) No.12670 of 2021
Date :20/09/2021

OGY
MS/VR/SAR-4/28.09.2021/3P.4C