



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

Date : 20.10.2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.13929 of 2021

1.Suresh Thevar @ Kasini Vendhan @ S.Suresh Kasiniventhan

2.Kombaiah

3.Sakayam @ Sahayamani ... Petitioners/Accused A1,A3&A5

Vs

State represented by
the Sub Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.

(Crime No.279 of 2021)

... Respondent/Complainant

For Petitioners : Mr.V.Kathirvelu
Senior Counsel for
Mr.Sundarapandian.S, Advocate

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

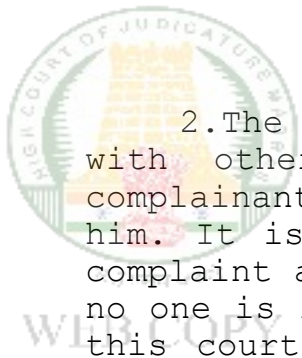
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.279 of 2021 on the file
of the respondent Police.

ORDER : The Court made the following order :

This is the second anticipatory bail petition filed by these
petitioners, who are accused in Crime No.279 of 2021. These
petitioners are accused Nos.1,3,5 and the case has been registered
as against eight persons for the offence under Sections 147, 148,
341, 294(b), 427, 307 and 506(ii) IPC.



2.The case of the prosecution is that these petitioners along with other accused unlawfully assembled, waylaid the defacto complainant, abused him in filthy language and attempted to kill him. It is a counter case. The accused parties have also lodged a complaint against the defacto complainant. Considering the fact that no one is injured in this case and it is a case of case in counter, this court has granted anticipatory bail to accused Nos.2, 4, 6,7 and 8 in CrI.O.P(MD)No.12636 of 2021 on 03.09.2021. However, the anticipatory bail petition was dismissed as against these petitioners considering the objections raised by the prosecution agency that the first petitioner was having twenty previous cases and second petitioner was having three previous cases and the third petitioner was having two previous cases.

3.Now, this second application is filed on the ground that the objections raised by the prosecution agency on the previous antecedents of the petitioners is not correct and it is only two cases pending as against the first petitioner and one case alone is pending as against other petitioners.

4.The learned Senior Counsel for the petitioners submitted that this case has been foisted as against the petitioners due to political reasons. The previous cases are registered either under section 110 CrPC or 107 CrPC and those cases either ended in acquittal or closed as action dropped. He furnished the details about those cases registered and closed, acquitted as against the first petitioner Suresh Dev @ Kasi Thevan.

5.The learned Senior counsel has also submitted that only two cases are pending against these petitioners in Crime Nos.57 of 2015 on the file of the Srivaikundam Police Station and another case another case in Crime No.243 of 2016 on the file of the Nanguneri Police Station, it is registered only for the offence under Sections 143, 188 and 285 IPC. Insofar as the second petitioner Kambaiyah is concerned, he is also an accused in Crime No.243 of 2016. The third petitioner Sagayam is involved in Crime No.150 of 2016 on the file of the Srivaikundam Police Station, which is registered under the Open Place Disfigurement Act.

6.The learned Senior Counsel further submits that One Parisamuthu Vice President of Nallur Panchayat Union and also the President of Kurumbur Primary Agricultural Co-Operative Society, has filed an affidavit before this Court that the first petitioner is doing several welfare measures to the needy through an organization namely Saaral Foundation. One Chitra, W/o.Parisamuthu, who is the president of Nallur Panchayat and she has also filed an affidavit that the first petitioner will not indulge in any offence in future.

7.The defacto complainant has raised objections by filing

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



intervening application through his Counsel Mr.M.Pandian and the learned Counsel for the intervenor submitted that the first petitioner is a rowdy element and nobody is dare enough to depose against him and therefore, he got acquitted in the cases registered against him and he is in the habit of doing Kangaroo Court.

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8.The learned Additional Public Prosecutor after verifying the details furnished by the learned Senior Counsel for the petitioners submitted that only two cases are pending as against the first petitioner and one case is pending against other petitioners.

9.These petitioners have been arrayed as accused in this case and in this case, no one is injured and the accused is said to have attempted to murder. Considering the nature of the offence, this Court by earlier order dated 03.09.2021 granted anticipatory bail to accused Nos.2, 4, 6, 7 and 8 with certain conditions and the anticipatory bail petition was dismissed as against these petitioners due to their antecedents. Now the learned Senior Counsel has demonstrated that it is only two cases pending against the first petitioner and only one case is pending against the other petitioners. One of those cases is registered for the offence under Sections 188 and 285 IPC.

10.Considering the affidavit filed by the elected representatives and the nature of allegations levelled against these petitioner, their antecedents and no one is injured in this case, grant of anticipatory bail to the other accused in this case, this Court is inclined to grant anticipatory bail to these petitioner with the following conditions.

11.Accordingly this criminal original petition is allowed and the petitioners 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 No.3, Tirunelveli on condition that the petitioners each shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum and on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit before the trial Court, by ensuring that the petitioner will not indulge in any other offence in future and he will be available for the entire trial;

[b] the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[c] the petitioners shall report before the Srivaikundam Police



Station daily at 10.30 am until further orders.

[d]the petitioners shall not tamper with the evidence or witness either during investigation or trial.

[e]the petitioners shall not abscond either during investigation or trial.

[f]On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners are 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]**.

[g]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
20/10/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dsk

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.3
TIRUNELVELI
- 2.DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 3.THE SUB INSPECTOR OF POLICE,
TIRUNELVELI TALUK POLICE STATION,
TIRUNELVELI DISTRICT.



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

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ORDER
IN
CRL OP(MD) No.13929 of 2021
Date : 20/10/2021

RK/SKN/SAR-I (26/10/2021) 5P 5C