



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/11/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.18038 of 2021

1. Prithikaivasan
2. K.Sathishkumar

... Petitioners/Accused
Rank Not Known

Vs

State rep.by
The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.
(Crime No.447 of 2021).

... Respondent/Complainant

For Petitioners : M/s.Marimuthu,N. Advocate

For Respondent : M/s.S.S.Madhavan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.447 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 392 IPC, in Crime No. 447 of 2021, seek anticipatory bail.

2.The case of the prosecution is that when the defacto complainant was in his house, four persons trespassed into his house, threatened him and his family members with deadly weapons to remove their jewels and to handover the same to them. Thereafter, they have taken away the jewels worth about Rs.15,000/-, three cell phones and also ATM cards. Hence, the complaint.



3. The learned counsel for the petitioners would submit that the petitioners' name does not find place in the FIR. He would further submit that the petitioners were implicated only on the basis of the confession statement given by the first accused.

4. The learned Government Advocate (Crl. Side) would submit that the petitioners trespassed into the defacto complainant house, threatened him and also taken away the jewels, cell phones and ATM cards. He would further submit that the second petitioner is having four previous cases, in which, two murder cases and another case for similar offence and the first petitioner is not having any previous case.

5. Considering the fact that the second petitioner is having four previous cases, in which, two murder cases and another case for similar offence, this Court is not inclined to grant anticipatory bail to the second petitioner. Accordingly, this Criminal Original Petition is dismissed in respect of the second petitioner is concerned.

6. Considering the fact that the first petitioner is not having any previous case and upon considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the 1st petitioner with certain conditions.

7. Accordingly, the criminal original petition is allowed in respect of the first petitioner is concerned. The 1st 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, Karaikudi, Sivagangai District, on condition that the 1st petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

a) the 1st 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 to ensure their identity;

(b) the 1st petitioner shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, as and when required for interrogation.

(c) the 1st petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the 1st 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 1st petitioner in accordance with law as if the conditions have been imposed and the 1st 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]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8. In the result, the Criminal original petition is partly allowed.

Sd/-
18/11/2021

/ TRUE COPY /

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

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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 Court,
Karaikudi, Sivagangai District.
2. Do-Through The Chief Judicial Magistrate,
Sivagangai District.
3. The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District. Cr.No. 447 of 2021..
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.18038 of 2021
Date : 18/11/2021