



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

Date : 02/12/2021

PRESENT

The Hon'ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.19010 of 2021

WEB COPY

G.SARATHKUMAR

... PETITIONER/ACCUSED NO.16

VS

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
THIRUMANGALAM TOWN POLICE STATION,
MADURAI DISTRICT.
(CRIME NO. 1227 OF 2021).

... RESPONDENT/COMPLAINANT

For Petitioner : M/s.Arulvadivel @ Sekar C,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

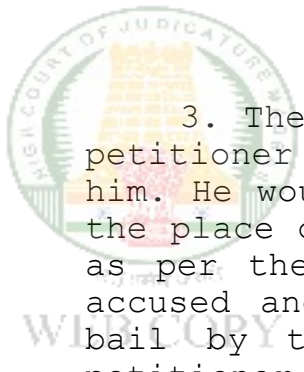
PRAYER :-

For Anticipatory Bail in Crime No.1227 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused No.16, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 109, 120B, 147, 148, 149, 302 and 342 of IPC, in Crime No. 1227 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the father of the deceased. The deceased was employed in Coimbatore. Five months prior to the occurrence, he was arrested in a case of murder of one Manikandan. Thereafter, he came out on bail and continued his job in Coimbatore. Due to Diwali festival, he came to his native and stayed in his elder brother's house. On 19.11.2020, at about 02.30 p.m, the defacto complainant's elder son informed that when the deceased was coming from the Court after attending the case of the above said Manikandan, the relatives of the above said Manikandan, namely, Ramesh, Babu, Udhayasuriyan, Sukumar and the others have brutally attacked him with deadly weapons and murdered him and rolled down his body into the Kanmai and fled away from the scene of occurrence by using two wheelers. Thereafter, his body was taken to the Thirumangalam Government Hospital, Madurai, and later to the Rajaji Government Hospital, Madurai. Hence, the complaint.



3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that the petitioner was not present in the place of occurrence and his name was not found in the FIR. Only as per the alternation report, the petitioner was arrayed as 16th accused and co-accused have already been released on anticipatory bail by this Court. Hence, he seeks anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that it is a retaliation murder. There are totally 17 accused in this case. The petitioner was arrayed as 16th accused and the co-accused have already been released on anticipatory bail by this Court.

5. This Court, after considering the rival contentions in the anticipatory bail application of co-accused in Crl.OP(MD)Nos.21 & 506 of 2021, vide order dated 24.02.2021, has observed the following facts in paragraphs 8 and 9, which are extracted here under:-

"8. It is seen that admittedly the petitioners were not present in the scene of occurrence and they are relatives of Manikandan. The murder of said Prakash in this case is a sequel to the murder of Manikandan. In the First Information Report only names of six persons have been mentioned of which A1 to A4 are assailants and A5 and A6 are the conspirators and the role played by them have been clearly mentioned. Further both the groups hail from same place and they are known to each other. There was an enmity between them, since Manikandan helped one Sarath Kumar for love marriage with the daughter of J.D.Vijayan, political party functionary. The deceased Prakash was murdered when he was attending Court in Manikandan case. The role played by each of the accused in the commission of both the offences are well known to each other. The petitioners herein are arrayed as accused on the premise that all the petitioners were in constant touch with each other. By relationship they are close relatives. Hence having contact with each other is normal.

9. In this case, the defacto complainant, Thiyagarajan and his son Parthiban are not eye-witnesses and the other Parthiban who accompanied the Manikandan is the eye witness to the said occurrence and he has not stated anything about the role played by the petitioners. Further the petitioners being relatives contacting each other is normal and they have been roped in on the charge of conspiracy. Other than telephone conversation no materials produced by the respondents to implicate the petitioners herein as accused. All the telephonic records/CDR tower location have been collected and available with the respondent, hence custodial interrogation of the petitioners is not required."



6.The above observations are squarely applicable to the present petitioner. Admittedly, the petitioner was not present in the place of occurrence. He is shown to be the relative of Manikandan. The only allegation against the petitioner is that he helped the other accused and also informed that would take care of the case to be registered against them.

7.Considering the facts and circumstances of the case and considering the nature of charges alleged against the present petitioner and that the co-accused have already been granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thirumangalam, Madurai District, on condition that the 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 condition that:

(a)the 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 petitioner shall report before the respondent police daily 10.30 a.m for a period of 30 days and thereafter, as and when required for interrogation.

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

(d)the petitioner shall not abscond either during investigation or trial;

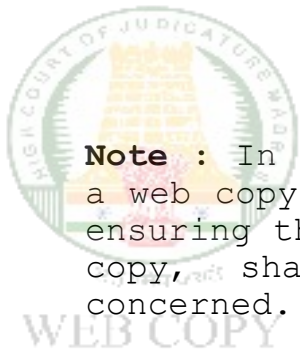
(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down 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.

sd/-
02/12/2021

/ 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 JUDICIAL MAGISTRATE,
THIRUMANGALAM MADURAI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
THIRUMANGALAM TOWN POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.ARUL VADIVEL@SEKAR, Advocate (SR-8792[I] dated 03/12/2021)

ORDER
IN
CRL OP(MD) No.19010 of 2021
Date :02/12/2021

dss
USK/PN/SAR-IV/ (08.12.2021) 4P-6C