



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CrI.O.P.No.1063 of 2021

S.Sivakumar

....Petitioner

Versus

1. The Commissioner of Police,
Commissioner Office,
Greater Chennai, Vepery,
Chennai, 600 007.

2.The Superintendent of Police,
CID/Crime-II, Himachal Pradesh,
Shimla 171009.

3.The Inspector of Police,
R3, Ashok Nagar Police Station,
Chennai.
(CID/Cr/Br/APPLE/SIT/2021-59)

...Respondents

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on Inter-state anticipatory bail in the event of their arrest in CID/Cr/Br/APPLE/SIT/2021-59 pending on the file of the second respondent police.

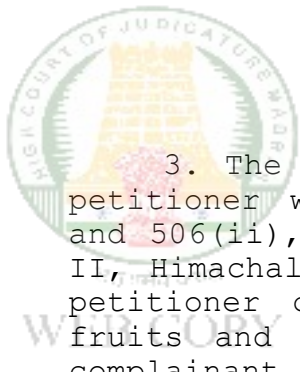
For petitioner : Mr.S.Panneerselvan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The petitioner, who arrayed as accused, apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406,420 and 506(ii) I.P.C in CID/Cr/Br/APPLE/SIT/2021-59, on the file of the second respondent police, seeks anticipatory bail.

2. The petitioner filed this petition under Section 438 Cr.P.C, who have been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, have approached this Court for Interstate Anticipatory Bail, so as to enable them to approach the appropriate Court.



3. The learned counsel for the petitioner would submit that the petitioner were implicated for the offences under Sections 406, 420 and 506(ii), on the file of The Superintendent of Police, CID/Crime-II, Himachal Pradesh, Shimla 171009. Further, the allegation is that petitioner committed cheating of huge amount for purchasing apple fruits and further there was a monetary dispute with the defacto complainant. Hence, he prayed for interstate anticipatory bail.

4. Notice issued to the respondents.

5. Heard the learned Additional Public Prosecutor appearing for the State (R1, R2 & R3).

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if his arrest are sought within the jurisdiction of this Court, irrespective of the fact that they are resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of S.P. Shanthi Swaroop v. State of Tamil Nadu, rep. By Asst. Commissioner of Police, Central Crime Branch, Madras reported in 1992 L.W.(CrI).475. After elaborate discussions, decisions and considering the ratio laid down by the Patna High Court in Syed Safrul Hassan v. State has passed the following order:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioner available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

7. Thereafter, a learned Single Judge of this Court in the case of P.Thangavelu and others v. State, rep. By the Inspector of Police and other reported in 2017 (2) MWN (Cr.) 633 has passed the following orders,

"9. Thus, it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to



grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioner for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10. Accordingly, Interim Anticipatory Bail is granted to the petitioner herein till 01.08.2016. The petitioner are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioner shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, I am inclined to grant interim interstate anticipatory bail to the petitioner till 03.03.2022. Accordingly, interim interstate anticipatory bail is granted to the petitioner till 03.03.2022. The petitioner are directed to be enlarged on bail in the event of arrest or on their appearance before the first respondent police and on further condition that:

(i) the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



(ii) within the said period, i.e., before 03.03.2022 the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

WEB COPY

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20/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 XVII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE COMMISSIONER OF POLICE
COMMISSIONER OFFICE,
GREATER CHENNAI, VEPEERY,
CHENNAI - 600 007.

5 THE SUPERINTENDENT OF POLICE
CID/CRIME-II, HIMACHAL PRADESH,
SHIMLA - 171 009.

6 THE INSPECTOR OF POLICE
R3, ASHOK NAGAR POLICE STATION,
CHENNAI.

CC to M/S.R.GOWTHAMAN Advocate on payment of necessary charges
Sr.970

CRL OP.1063/2022

Date :20/01/2022

RVR 27/01/2022