



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 09/02/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

WEB COPY

Crl.OP(MD)No.470 of 2022

P.Kathirvel

... Petitioner/3rd Accused

Vs.

The State rep. by
The Inspector of Police,
Somarasampettai Police Station,
Trichy District.
(Crime No.769 of 2021)

... Respondent/Complainant

Mythili

... Intervener/Defacto Complainant
In Crl.MP(MD).781/2022

For Petitioner : Mr.K.R.NISHANT, Advocate
For Respondent : Mr.SS.MADHAVAN
Government Advocate (Crl. Side)
For Intervener : Mr.N.R.MURUGESAN, Advocate

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

PRAYER :- For Anticipatory Bail in Crime No.769 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order:-

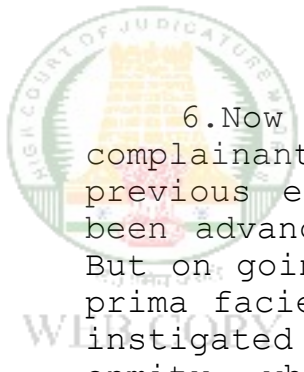
The petitioner, who is arrayed as A3 apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 294(b), 109 and 302 IPC, in Crime No.769 of 2021 seeks anticipatory bail.

2.The petitioner is facing the charges for the offences punishable under sections 294(b), 109 and 302 IPC.

3.Heard both sides.

4.I have gone through the entire CD file as well as the confession statement of the co-accused namely Prabhu and nowhere in the statement, he has implicated this petitioner that only at his instigation or abetment, they have committed the assault on the deceased persons.

5.On going through the entire CD file shows that it is absolutely a previous enmity between the accused persons and the defacto complainant. In view of the above, steps have been taken by the deceased to remove the encroachment, that has been made by the accused persons in the disputed property.

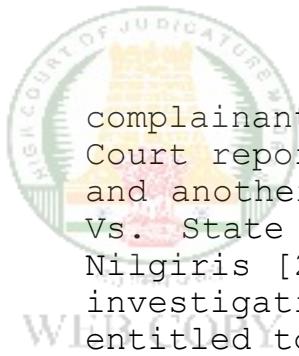


6.Now the learned counsel appearing for the intervener/de-facto complainant sought to implicate this petitioner on the ground of previous enmity and previous cases and an elaborate argument has been advanced by the learned counsel appearing for the intervener. But on going through entire records, this court absolutely finds no prima facie ground. To Show that this petitioner has not abetted or instigated the co-accused to commit the murder. So whether the enmity, which existed between the de-facto complainant party and this petitioner was the main reason, that can be a matter for investigation.

7.An elaborate argument has been advanced by the learned counsel appearing for the intervener/de-facto complainant. He would submit that one U.Vigneshwaran, who is the President of Malliampathu Panchayat with the assistance of the deceased, removed the encroachment of burial ground as per the direction of the District Collector, Trichy. The 2nd respondent was the Ex-President of Malliampathu Panchayat. Because of the above removal, they developed enmity against the deceased and the above said U.Vigneshwaran. They only engaged the accused persons 1 and 2 to murder the deceased. Only in furtherance of the above said abetment and instigation, the occurrence has been taken place. Similarly, A4-Ravi Murugaiah is also having enmity to show that the enmity was also exists between A4 and the deceased with regard to the lands issue. This the strong enmity between A4 and the deceased, because of the above said development and the in pursuance of O.S No.27 of 2020 and SC No.171 of 2015, The deceased also working in favour of U.Vigneshwaran during the local body election. So also aggravated the petitioner to wreak vengeance with the above said U.Vigneshwaran and the deceased. Similarly they have also indulged in creating nuisance in respect of temple issue. Over the above said issue, the deceased lodged a complaint on 12/03/2021 against some of the persons. The accused in that crime also had a vengeance against the deceased and the above said Vigneshwaran. The deceased also took steps before District Legal Services Authority against the petitioner. So the deceased and the above said Vigneshwaran have filed Crl.OP(MD)No.7829 of 2019 seeking police protection, wherein this petitioner has been arrayed as one of the respondents. Similarly because of the influence that is made by the petitioner, proper final report was not filed in CC No.766 of 2021 in respect of theft of stone pillars, which were installed in the burial ground. So because of the continuous enmity only, the present occurrence has been taken place. The de-facto complainant also filed WP(MD)No.22711 of 2022 seeking a direction to the respondent to impound the passport of this petitioner, namely the 4th accused.

8.The anticipatory bail that was moved by the petitioner was dismissed by the Principal District Judge, Trichy, in Crl.M.P No.5965 of 2021, since the investigation in the preliminary stage, the petitioner is not entitled for the relief of anticipatory bail.

<https://hccservices.ecollm.gov.in/bcs> learned counsel appearing for the intervener/de-facto



complainant also relied upon the judgment of the Hon'ble Supreme Court reported in the case of G.R.Ananda Babu Vs. Stte of Tamil Nadu and another [2021(1) MWN SCC 249 (SC)] and in the case of K.V.Sayan Vs. State rep. By Inspector of Police, Kotagiri Police Station, Nilgiris [2020(3) MWN 30] for the purpose of argument that since the investigation in the preliminary stage, the petitioner is not entitled to the relief of anticipatory bail.

9. But for the reasons stated above, I am not able to place on record any opinion with regard to the alleged involvement of the petitioner in the occurrence in view of the previous enmity between the deceased and the petitioner. As mentioned earlier, as on date, no material is available, even as per the confession statement of the co-accused. Further, similarly placed co-accused has been granted anticipatory bail in Crl.OP(MD)No.20991 of 2022, dated 29/12/2021 on the ground that the above said co-accused was also not implicated by the co-accused in the course of confession statement. Since the petitioner is also similarly placed person, this court is inclined enlarge the petitioner on anticipatory bail.

10. In view of the above facts, this Court is inclined to grant **anticipatory bail to the petitioner** with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.5, Trichy and on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judge concerned and on further condition that the petitioner shall appear before the respondent police once in 15 days at 10.00 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

sd/-

09/02/2022

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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 NO.5
TRICHY.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE,
SOMARASAMPETTAI POLICE STATION,
TRICHY DISTRICT.

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

+1. CC to M/S.N.R.MURUGASAN, Advocate SR.No.1005

ORDER

IN

CRL OP(MD) No.470 of 2022

Date :09/02/2022

SA/JM/SAR.1/16.02.2022/4P/6C