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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.3128 of 2022

1.R.Pasupathy

2.P.Ramya

... Petitioners/Accused No.2 & 3

Vs

State rep.by

The Inspector of Police,

Theni Police Station,

Theni District

(Crime No.42 of 2022).

... Respondent/Complainant

Aswin

... Petitioner/Intervener/Defacto
Complainant

(in Crl.MP (MD) No.2609/2022)

For Petitioners : M/s.Prabha.S., Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl.Side)

For Intervenor : Mr.B.Jeyakumar, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.42 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 506(2) and 501 of IPC, in Crime No.42 of 2022, seek anticipatory bail.



2.The case of the prosecution is that on 16.12.2021, the petitioners along with A1 have sent death notification that the de-facto complainant has died and A1 also criminally intimidated the de-facto complainant. Hence, the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocents and they have not committed any offence as alleged by the prosecution.

4.When the matter is taken up for hearing today, in pursuance of the direction of this Court, the respondent police has filed a status report, wherein, it has been stated that A1 was arrested on 26.03.2022 and remanded to judicial custody, that they have already examined 9 witnesses and that the case is under further investigation and awaiting for the report from the Cyber Crime Wing as to source number or ID from which the mischievous messages were posted.

5.The learned counsel for the intervenor would submit that he is not having any objection to grant anticipatory bail to the second petitioner. Since the first petitioner is the main accused along with A1, he is having objection to grant anticipatory bail to the first petitioner.

6.The learned Government Advocate(Crl.Side) would submit that they have found the conversation between A1 and the de-facto complainant and as of now, they have not received any conversation between the second accused and the de-facto complainant.

7.Considering the facts and circumstances of the case and also the facts that the main accused was already arrested and he is in judicial custody and that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Theni, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each 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 petitioners 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 first petitioner shall report before the respondent police daily at 10.30 a.m., until further orders; and the second

petitioner shall appear before the respondent police as and when required for interrogation.

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

(d) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

05/04/2022

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

SJI

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

+1. CC to M/S.PRABHA.S. Advocate SR.No.2969

ORDER

IN

CRL OP(MD) No.3128 of 2022

Date : 05/04/2022