



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/03/2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.5140 of 2022

S.Hariharan, ... Petitioner/Accused Rank unknown

Vs

THE STATE REP BY,
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
Cr.No. 96 of 2022..

... Respondent/Complainant

For Petitioner : MR.S.C.Herold Singh, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.96 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 153, 504 and 427 IPC r/w 4(1) of Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, in Crime No.96 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 11.03.2022, the petitioner along with unknown persons entered into the Government Primary School, Ottayavilai at Kanyakumari District and spilled the waste oil on the picture of Thanthai Periyar. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner has got strong affection towards 'Thanthai Periyar'. Due to illness, the petitioner was admitted at KIMS Hospital, Tiruvananthapuram and underwent surgery in his brain for removable of tumor and that he has been in continuous treatment and that he has nothing to do with the alleged occurrence.



4.The learned Government Advocate (Criminal Side) would submit that the investigation is pending.

5.When the matter is taken up for hearing today, the learned counsel for the petitioner has filed an undertaking affidavit sworn by the petitioner, wherein the petitioner has stated that the false case has been foisted against him and undertakes that he will not involve in any such activities in future.

6.Considering facts and circumstance of the case and also considering the nature of charges levelled against the petitioner and also taking note of the undertaking affidavit filed by the petitioner and that the petitioner is not having any previous case as stated by the learned Government Advocate(Criminal Side), this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7.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 No.I, Nagercoil, 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 learned Magistrate concerned and on further conditions that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

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

(c)the petitioner shall not tamper with the 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/petitioner, thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
24/03/2022

/ TRUE COPY /

WEB COPY

/ /2022

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

das

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.I
NAGERCOIL
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADRURAI.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate(SR-2470[I]dated 25/03/2022)

ORDER
IN
CRL OP(MD) No.5140 of 2022
Date :24/03/2022

PKP/SBN/SAR-1/29.03.2022/3P/6C