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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.8095 of 2022

1. Alagu George
2. S.Muthukrishnan ... Petitioners/Accused No.3 & 4

Vs

State rep.by
The Inspector of Police,
Sathankulam Police Station,
Sathankulam, Thoothukudi District.
Crime No.209 of 2021. ... Respondent/Complainant

For Petitioners : Mr.T.Vadivelan,
Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.209 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 341, 323 and 506(ii) IPC, in Crime No.209 of 2021, seek anticipatory bail.

2.The case of the prosecution is that there arose wordy quarrel between two groups with regard to CSI Diocesan election, the petitioners along with other accused abused the defacto complainant in filthy language and assaulted him. 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. He would further submit that the petitioners along with accused Nos.1 and 2 have filed an application in Crl.M.P.No.3621 of 2021, seeking anticipatory bail and the

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learned Principal Sessions Judge, Thoothukudi, has granted anticipatory bail to the petitioners, vide order dated 02.09.2021. He would further submit that since the petitioners have not complied with the orders, the respondent Police have filed an application in Crl.M.P.No.5105 of 2021, to cancel the anticipatory bail and that the learned Principal Sessions Judge has ordered Non Bailable Warrant. Hence, the petitioners are constrained to file this application, seeking anticipatory bail.

4.The learned Government Advocate (Criminal Side) appearing for the State would submit that subsequently the first accused was reported dead.

5.The learned counsel for the petitioners would submit that the learned Principal Sessions Judge, Thoothukudi, without cancelling the anticipatory bail, has straight away issued NBW.

6.Moreover, it is settled law that even after dismissal of anticipatory bail, the Court is not having any power or jurisdiction to direct the Police to arrest the accused or for issuance of NBW against them.

7.Considering the facts and circumstances and also the fact that the learned Principal Sessions Judge, Thoothukudi has ordered for the issuance of Non Bailable Warrant against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of 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, Sathankulam, 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 petitioners shall report before the respondent police daily at 10.30 am for a period of one month and thereafter, 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

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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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
28/04/2022

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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
SATHANKULAM

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.

3 THE INSPECTOR OF POLICE
SATHANKULAM POLICE STATION, SATHANKULAM,
THOOTHUKUDI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.8095 of 2022
Date :28/04/2022

DAS
MK/JM/SAR.II/06.05.2022/3P/5C

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