



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 16/09/2022
PRESENT

WEB COPY

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.16544 of 2022

Seethalakshmi @ Seethai

... Petitioner/Accused No.2

Vs.

The State rep.by
The Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.
(In Crime No.79 of 2022)

... Respondent/Complainant

For Petitioner : Mr.K.SYMBULINGA BHARATHI, Advocate
for Mr.R.ANANDHARAJ, Advocate

For Respondent : Mr.RMS.SETHURAMAN
Additional Public Prosecutor

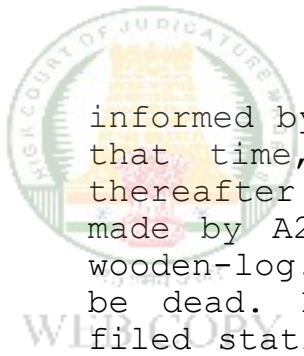
PETITION FOR ANTICIPATORY BAIL under Sec.438 of Cr.P.C

PRAYER:- For Anticipatory Bail in Crime No.79 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as A2 apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 109, 324, 307 IPC r/w section 4 of TNPHW Act @ section 294(b), 109, 324, 302 IPC r/w section 4 of TNPHW Act, in Crime No.79 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the accused persons and the de-facto complainant are neighbours. The wife of A1 by name Mangayarkarasi was in talking terms with the de-facto complainant and that was not liked by A2, who is the mother-in-law and A3, who is the sister-in-law. Later a marriage proposal was made for the son of the de-facto complainant and that proposal was spoiled by the accused persons. Because of that, there was enmity. Two days prior to the occurrence, there was a domestic petty quarrel between Mangayarkarasi and her mother-in-law, suspecting that the above said issue arose at the instance of the de-facto complainant, A1 was



informed by A2 and A3, on 08/05/2022, when he returned to : At that time, A2 and A3 instigated A1 to kill the deceased and thereafter come to the house. So, at the instigation, that has been made by A2 and A3, A1 caused severe injury to the deceased with wooden-log. He was admitted in the hospital and later, declared to be dead. Investigation was undertaken and final report was also filed stating that A1 was punishable under section 294(b), 324 and 302 IPC and section 4 of TNPHW Act. A2 and A3 have been charged sheeted for the offences under sections 294(b), 109, 302 r/w 34 IPC.

3. Seeking anticipatory bail, this petition has been filed by the petitioner, who is arrayed as A2.

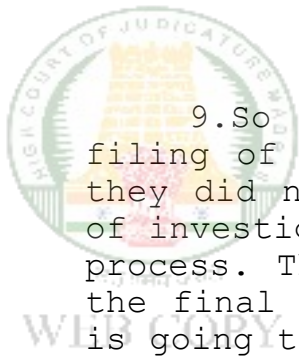
4. This is the 3rd anticipatory bail application. Earlier two petitions have been dismissed after elaborate consideration the point during the preliminary investigation, it was found that the his petitioner also joined with A1 in causing assault to the deceased. So on that ground, the first application was dismissed sine specific specific overtact has been attributed against this petitioner. The second application was filed when alternation report was filed by the Investigating officer altering the offence in the report, it has been stated that this petitioner did not make any assault to the deceased. That petitioner was also dismissed by this court that there is specific overtact and allegation to the effect that this petitioner also instigated A1 to cause assault and murder. They were directed to surrender before the authorities and seek regular bail and that was not complied.

5. This 3rd anticipatory bail application has been filed on the ground that final report has been filed before the concerned court showing that this petitioner only absconding accused and the custodial interrogation may not be required. No purpose is going to be served by subjecting the petitioner to the custodial interrogation.

6. The learned Additional Public Prosecutor would submit that the earlier order was not complied by the petitioner. So this 3rd application should be considered.

7. Even though the learned counsel appearing for the petitioner is very much persisting the point that they are not all connected over the issue, they have been wrongly roped.

8. Reading of the final report shows that this petitioner is also shared the common intention with A1 to assault which eventually went to the death of the deceased. As mentioned above, there is clear allegation of abatement of assault. When such being the case, the discretionary relief of anticipatory cannot be exercised in favour of this petitioner, who has instigated the murder.



9. So I find no change of circumstance in this case. The delay in filing of the anticipatory bail is not also appreciable. Moreover, they did not appear before the respondent police during the course of investigation and cooperated with the completion of investigation process. That is why they have been shown as absconding accused in the final report. This is the case of murder. The committal court is going to issue NBW against the petitioner. So in any event, they have to surrender before the concerned court and seek regular bail. Even at the time of surrendering, the respondent may take steps to secure the custody of the petitioner for custodial interrogation with regard to the alleged common intention is over.

10. Such an opportunity should not be denied to the Investigating Officer. They can even file a supplementary final report after examining the petitioner. Since it is a serious case of murder unless strong case is made out by the petitioner he is not entitled for anticipatory bail. I find absolutely no change of circumstances.

11. In the result, this criminal original petition is **dismissed**.

sd/-

16/09/2022

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/09/2022

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

TO

- 1 THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.16544 of 2022
Date : 16/09/2022

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SA/GB/SAR.2/27.09.2022/3P/3C