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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.17316 of 2022

Mohamed Riyas

... Petitioner/Petitioner/
Accused No.5

Vs

State rep.by
The Inspector of Police,
K.Pudur Police Station,
Madurai City, Madurai.
(Crime No.304/2022).

... Respondent/Complainant

For Petitioner : M/s.Abdul Rahuman S, Advocate.

For Respondent : Mr.Vaikam Karunanithi
Government Advocate (criminal side)

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

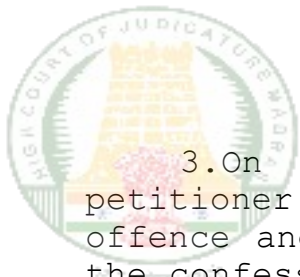
PRAYER :-

For Anticipatory Bail in Crime No.304/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 399 IPC and Section 25(1)(a) of Arms Act, in Crime No.304 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 13.08.2022, when the respondent police was on patrol duty, they found that the petitioner and four other accused have looted a house at Valarnagar with two swords. On seeing the police, the accused persons tried to escape. The police only caught hold of four other accused and the petitioner escaped from the scene. Therefore, this case came to be registered.



3. On the side of the petitioner, it is stated that the petitioner is innocent and he has nothing to do with the alleged offence and the co-accused were already released on bail. Only on the confession of the co-accused, the petitioner was implicated in this case and prayed the petitioner to be released on anticipatory bail.

4. On the side of the prosecution, it is stated that it is a case of robbery and the petitioner is having one previous case, which is similar in nature. Earlier petition filed by the petitioner in CrI.O.P.(MD)No.16052 of 2022 was dismissed by this Court on 13.09.2022, this is the second bail application and prayed the petition to be dismissed.

5. The earlier bail petition was dismissed on 13.09.2022, even then, the prosecution has not taken any steps to secure the petitioner. Co-accused were already released on bail. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, this petition is allowed and 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.6, Madurai, on condition that the petitioner shall execute 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 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 petitioner 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 petitioner shall report before the respondent police daily at 10.30 am until further orders;

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

(d) the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

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

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Sd/-
29/09/2022

/10/2022

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

Ls

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.6,
MADURAI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION,
MADURAI CITY, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.ABDUL RAHUMAN.S Advocate SR.No.10836

ORDER
IN
CRL OP(MD) No.17316 of 2022
Date :29/09/2022