



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 05/07/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGOVAN

Crl.OP(MD)Nos.19332 and 19765 of 2021

WEB COPY

Senthil

... Petitioner/Accused No.1
in CRL OP(MD)No.19332 of 2021

P.Pon Suriya

... Petitioner/Accused No.2
in CRL OP(MD)No.19765 of 2021

Vs.

State represented by
Inspector of Police,
AWPS,Tiruchendur,
Thoothukudi District.
(Crime No.25 of 2021)

...Respondent/Complainant
in both petitions

For Petitioner : MR.T.Lajapathi Roy for
Mr.V.Rajiv Rufus, Advocate
in Crl OP(MD)No. 19332 of 2021

Mr.N.Pragalathan, Advocate
in Crl OP(MD)No. 19765 of 2021

For Respondent : Mr.SS.Madhavan
Government Advocate (Crl.side)
in both Petitions

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

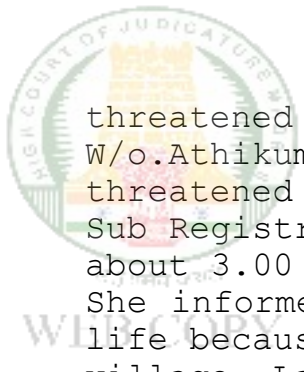
COMMON PRAYER :-

For Anticipatory Bail in Crime No.25 of 2021 on the file of the
Respondent Police.

COMMON ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 apprehending
arrest at the hands of the respondent police for the alleged
offences under section 363 IPC and section 9(m) and 10 of POCSO Act,
in Crime No.25 of 2021 seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant
is the mother of the victim girl, has lodged a complaint stating
that on 16/04/2021 at about 4.30 am, in the morning, A1 namely
Senthil came to her house and kidnapped her daughter. Along with
her, one second accused was also available. At that time, she was



threatened to execute a sale deed in favour of one A1, W/o.Athikumar. Later, at about 9.00 am, A1 returned and also threatened her to come to the Sub Registrar Office. She went to the Sub Registrar Office to put her signature and return to the house at about 3.00 pm. At that time, the victim girl was found in the house. She informed that A1 Senthil sexually assaulted her. Fearing their life because of the loan transactions issue, they went to some other village. Later, she lodged a complaint, on 17/11/2021.

3.When the anticipatory bail petitions were moved by the petitioners, the entire CD filed was called for and perused and this court has found some disturbing features.

4.The learned counsel appearing for the petitioners have also fairly submitted that if we go by the statement of the victim girl, she made serious allegation against the petitioners and the delay in lodging the complaint and the unbelievable nature of the accusation. The Investigating Officer was also directed to be present before this court. She was also present before this court and she was enquired by me. After hearing the parties, the following order was passed on 09/02/2022:-

4.For the purpose of ascertaining the truth and the involvement of the petitioners in the above said offence, the matter was heard more than twice. The Investigating Officer was also directed to be present before this court. She was also present in pursuance of the order of this court through VC from the learned Public Prosecutor's Office. She has submitted that from her preliminary investigation, she understood that the occurrence as stated in the complaint would not have been taken place an exaggerated complaint has been given for the purpose of escaping from the money dispute that exists between the de-facto complainant party and the accused persons. One more improbability that has been brought on record by the petitioners during the course of argument is that as per the case of the de-facto complainant, the kidnapping of girl said to have been taken place on 04.30 am on 06.04.2021. But on the above said date, registration of the document was undertaken. To show the same, CCTV footings have also been produced. So according to the petitioners, it is highly impossible that when the victim girl alleged to have been kidnapped by the above said accused persons, they remained silent and attending the registration of the document in the Sub Registrar office and remaining cool throughout the day. Only after seven months, a complaint has been allegedly given. So according the learned counsel appearing for the petitioners, this is highly improbable and against the human ordinary conduct and events.



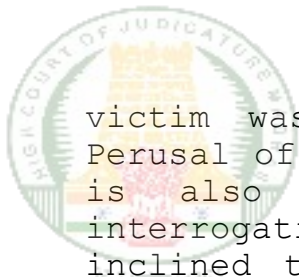
5.This court is also in a position to visualise meaning beyond the argument of the petitioners when the victim girl has been kidnapped in the very presence and in the eye of the father, the fact that the father of the victim girl remained silent for seven months, even without making any formal complaint creates much doubt upon the conduct of the de-facto complainant and the father of the victim girl. But during the 164 statement, the victim girl narrated many things and made serious allegations against the petitioners. So in the light of the above said facts, the truth will come out only during the course of investigation. But when prima facie ground has been made by the petitioners, they are entitled for interim anticipatory bail for a period of two months for the purpose of completing the investigation process.

6.On perusal of the typed set of papers that has been filed by the petitioners shows that there was continuous money transaction between the de-facto complainant party as well as the petitioners and the villagers. More specifically one Sivakumar has given a complaint against the de-facto complainant and her husband stating that with huge money and jewels, they absconded from the ordinary place of residence on 20/04/2021. That complaint was given on 20/09/2021. What happened to the above said enquiry is not clear on record. But however, it is seen that various complaints have been registered against the de-facto complainant and her husband.

7.In view of the above facts and circumstances of case, this Court is inclined to grant **interim anticipatory bail to the petitioners for a period of two months** for the purpose of completing the investigation process by the respondent with certain conditions. Accordingly, the petitioners are granted interim anticipatory bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Tiruchendur and each of them executing 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 learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police once in 15 days at 10.00 a.m. for the purpose of completing the investigation process. Depending upon the development, further orders will be passed.

List the matter after two months."

5.Thus the matter was kept pending, perusal of the CD file shows that further investigation has also been undertaken and the
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victim was also subjected to medical examination, so ..
Perusal of the CD file shows that most portion of the investigation
is also over. So subjecting the petitioners to custodial
interrogation may not be required at this stage. So this court is
inclined to grant anticipatory bail and accordingly, the interim
anticipatory bail already granted to the petitioners on 09/02/2022
is made **absolute** and the petitioners shall appear before the
respondent police daily at 10.30 am until further orders.

6. Accordingly, both the criminal original petitions are
allowed.

sd/-
05/07/2022

/ TRUE COPY /

/07/2022

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, THIRUCHENDUR.
- 2 DO THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, TIRUCHENDUR,
THOOTHUKUDI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.V.RAJIV RUFUS, Advocate (SR-6692[I] dated 06/07/2022)

ORDER
IN
Crl.OP(MD)Nos.19332 and
19765 of 2021
Date :05/07/2022

USK/SVR/SAR-I/12.07.2022/4P/6C

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