



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02.12.2022

WEB COPY

PRESENT

The Hon'ble Mrs. Justice R. THARANI

CRL OP(MD). No.21055 of 2022

Rajesh

... Petitioner/Sole Accused

Vs.

State rep. by
The Sub Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.
(Crime No.138 of 2022)

... Respondent/Complainant

For Petitioner : M/s.Chengiz Khan.K, Advocate

For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

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

PRAYER :-

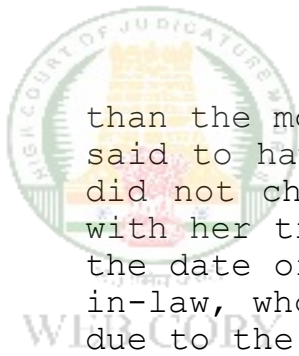
For Anticipatory Bail in Crime No.138 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 448, 427, 379 IPC I.P.C, in Crime No.138 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that due to matrimonial dispute, the petitioner and his wife were living separately. On 18.08.2022, at about 10.55pm, on knowing that the defacto complainant went to Erode, the petitioner came to her house and break open it. He also took the house hold articles, gold ornaments of her daughter and also damaged the two wheeler, which was parked outside. Hence, the complaint.

3. On the side of the petitioner, it is stated that the petitioner is innocent and he has not committed any such offence, as alleged by the prosecution. The defacto complainant is none other



than the mother-in-law of the petitioner. The alleged occurrence is said to have taken place, at about 10.55 pm, but, the mother-in-law did not choose to return back from Erode, immediately, she proceeded with her travelling, only after attending the function, 3 days after the date of occurrence, the F.I.R was registered. It was the mother-in-law, who prevented the petitioner, to live with his wife and only due to the matrimonial dispute, a false case was foisted against the petitioner. Hence, prays to release him on anticipatory bail.

4. On the side of prosecution, it is stated that the stolen articles were not recovered from the petitioner and he is having five cases at his credit and hence, prayed to dismiss the petition.

5. The list of previous cases was filed on the side of the prosecution. It is seen that one case was registered under Section 4(1)(a) of TNP Act, One case under Section 75 of TNCP Act, Two cases under Section 110 Cr.P.C. and one case under Sections 294(b), 506(i) I.P.C and Section 4 of TNPHW Act, wherein, a theft case was registered against the petitioner. The earlier anticipatory bail petition was dismissed on 12.09.2022, by this time, major portion of the investigation might have been over.

6. For the above reasons, this Court is inclined to grant anticipatory bail to the petitioner with certain condition.

7. Accordingly, this petition is allowed and the petitioner is ordered to be released on bail in the event of his arrest or on 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.III, Tirunelveli, 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 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 Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall report before respondent police daily at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with the 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]**.

[f] If the accused thereafter absconds, a FIR can be registered under Section 229-A IPC.

sd/-
02/12/2022

/ TRUE COPY /

/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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.III
TIRUNELVELI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUB INSPECTOR OF POLICE
SIVANTHIPATTI POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.21055 of 2022
Date :02/12/2022

PKP/SSS/SAR-2/09.12.2022/3P/5C