



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.21797 of 2022

WEB COPY

1.H.Usman Ali
2.Muthafa

...Petitioners/Accused No.1 & 2

-vs-

The State represented by
The Inspector of Police,
Thideer Nagar Police Station,
Madurai City, Madurai District.
(Cr.No.727 of 2022)

...Respondent/Complaint

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.727 of 2022 on the file of the Respondent Police.

For Petitioner : Mr.Niranjana S.Kumar, Advocate

For Respondent : Mr.M.Veeranthiran
Government Advocate (Crl.side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 366, 342, 294(b), 323, 324 and 506(ii) in Crime No.727 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Arulmurugan, is that due to a financial dispute, on 26.11.2022, the accused have kidnapped the de-facto complainant from Trichy and taken him to Madurai, wherein, they have picked up his friend, one Murugandandam, and thereafter, they have taken to Ramanathapuram and left them there. Subsequently, once again on 28.11.2022, the accused have kidnapped the de-facto complainant and his friend from Trichy and taken to Ramanathapuram and have indiscriminately assaulted them with hands and wooden logs and thereafter, had dropped them on the outer road of Ramanathapuram, from where, the de-facto complainant had took a bus to Trichy and reached home on early hours of 29.11.2022 and thereafter, he was at home for one day and on 02.12.2022, he got admitted in Trichy hospital. Hence, the complaint.



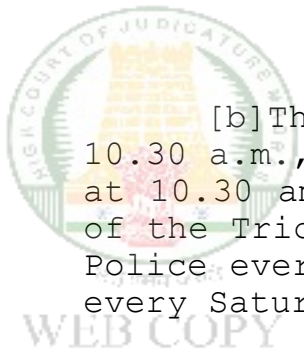
3.The learned Counsel for the petitioners would submit that the petitioners are innocent and a false complaint has been given against them. He would further submit that very reading of the FIR would expose the falsity of the FIR and would submit that the de-facto complainant, Arulmurugan and Murugandandam, have cheated the second petitioner to the tune of Rs.56,00,000/- and on a complaint given by the petitioners to the Deputy Commissioner of Police, City Crime Branch, Trichy, enquiry was conducted. He would submit that the de-facto complainant and his friend has been evading from payment to the second petitioner and to deny payment, a false complaint has been given against them, as if the accused have kidnapped them from Trichy on two occasions and later, they were left out. He would submit that the petitioners have no previous case against them. He also submit that the petitioners are ready to abide by any stringent conditions, that may be imposed on them.

4.The learned Government Advocate (Crl.side) would submit that on 26.11.2022, the petitioners have kidnapped the de-facto complainant from his residence at Trichy and thereafter, taken him all the way to Madurai, from Madurai, they have picked up his friend one Muruganandam from a lodge and thereafter, taken them to Ramanathapuram and they have left them. Subsequently, once again on 28.11.2022, the accused kidnapped the de-facto complainant and his friend Muruganandam and taken them to Ramanathapuram, where, they have assaulted them indiscriminately with hands and wooden logs resulting them in sustaining injuries and the de-facto complainant was admitted in hospital. Based on the complaint, since the kidnap was committed at Madurai, the case was originally registered by the Thideer Nagar Police Station, Madurai and now since the genesis of the case is from Trichy, the case is transferred to the file of Trichy Police.

5.Heard the learned Counsel. Taking into consideration the facts and circumstances of the case and on perusing the FIR, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Madurai, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am and in the event of case being transferred to the file of the Trichy Police, the petitioners shall report before the Trichy Police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[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 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]**.

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

sd/-

09/12/2022

/ TRUE COPY /

/12/2022

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

TO

1 THE JUDICIAL MAGISTRATE NO.II, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
THIDEER NAGAR POLICE STATION, MADURAI CITY, MADURAI DISTRICT.

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

COPY TO:

THE DEPUTY COMMISSIONER OF POLICE,
CITY CRIME BRANCH, TRICHY.

+1. CC to M/S. NIRANJAN S.KUMAR Advocate SR.No.14596 (I)

Date:09/12/2022.

ORDER IN

CRL OP(MD) No.21797 of 2022

Date :09/12/2022

cmr

SA/SSS/SAR.2/21.12.2022/3P/7C

<https://www.mhc.tn.gov.in/judis>