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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22647 of 2022

Moulishwaran

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Thevaram Police Station,
Theni District.
(Crime No.60/2022).

... Respondent/Complainant

For Petitioner : M/s.Ganeshkamu.M, Advocate.

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

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

PRAYER :-

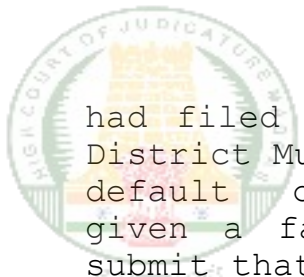
For Anticipatory Bail in Crime No.60/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2 who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 452,109,120(B),323,324,307 and 506(ii) of IPC in Crime No.60 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that due to property dispute there was enmity between the petitioner and the defacto complainant in which the petitioner along with other accused said to have attacked the defacto complainant with aruval and crow bar on the right side of his face and right shoulder. Hence the case came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that the petitioner herein is the son of A1 and the defacto complainant is none other than the elder brother of the first accused. He would further submit that the civil dispute is pending between the parties and the defacto complainant



had filed a civil suit in O.S. No.72 of 2021 on the file of District Munsif Court, Bodinaickanur and the same was dismissed for default on 08.10.2021. Further the defacto complainant has also given a false complaint against the petitioner. He would also submit that the defacto complainant was admitted in the hospital for treatment on 24.07.2021 and he was discharged from the hospital on 25.07.2021. Further A1 who is the father of the petitioner had surrendered before the Court and he was released on bail by the learned Principal Sessions Judge, Theni in Crl.M.P. No.2523 of 2022 dated 19.07.2022. He would further submit that the petitioner being student in order to spoil his future his name has been implicated in this case. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that the injured has been discharged from the hospital and no previous case pending against the petitioner.

5. Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration the facts and circumstances of the case and also the fact that the injured has been discharged from the hospital and also the fact that A1 has been released on bail by the Sessions Court, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Judicial Magistrate, Bodinayakanur, Theni District**, 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 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 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 everyday at 5.30 p.m until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.



[d] the petitioner 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 petitioner 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/-

23/12/2022

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/01/2023

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

AAV

TO

1 THE JUDICIAL MAGISTRATE,
BODINAYAKANUR, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

3 THE INSPECTOR OF POLICE
THEVARAM POLICE STATION, THENI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.22647 of 2022

Date :23/12/2022

RS/VR/SAR.2(04.01.2023) 3P-5C