



Crl.O.P.No.4771 of 2023

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T.V.THAMILSELVI

The petitioners, who are arrayed as accused, apprehend arrest at the hands of the respondent police for the offences punishable under Sections 363, 366, 376 (2) (D) IPC and Section 6 of POCSO Act, in Crime No.87 of 2020, on the file of the first respondent police, seek anticipatory bail.

2. The petitioners filed this petition under Section 438 Cr.P.C, who have been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, have approached this Court for Interstate Anticipatory Bail, so as to enable them to approach the appropriate Court.

3. The learned counsel for the petitioners would submit that the petitioners were implicated for the offences under Sections 363, 366, 376 (2) (D) IPC and Section 6 of POCSO Act, on the file of the Sub Inspector of Police, Vishrampuri Police Station, Kondagaon District, Chattishgarh. Hence, he prayed for interstate anticipatory bail.



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4. Notice issued to the 1st respondent.

5. Heard the learned Additional Public Prosecutor appearing for the State (R2).

6. The issue as to whether, in respect of the persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest are sought within the jurisdiction of this Court, irrespective of the fact that they are resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of ***S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras*** reported in ***1992 L.W.(Crl).475***. After elaborate discussions, decisions and considering the ratio laid down by the ***Patna High Court in Syed Safrul Hassan v. State*** has passed the following order:-

“For the foregoing reasons, we hold that



the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly.”

7. Thereafter, a learned Single Judge of this Court in the case of

P.Thangavelu and others v. State, rep. By the Inspector of Police and other reported in ***2017 (2) MWN (Cr.) 633*** has passed the following orders,

“9.Thus , it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions



under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10.Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.



11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, I am inclined to grant interim interstate anticipatory bail to the petitioners till 13.04.2023. Accordingly, interim interstate anticipatory bail is granted to the petitioners till 13.04.2023. The petitioners are directed to be enlarged on bail in the event of arrest or on their appearance before the first respondent police and on further condition that:

(i) each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;



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(ii) within the said period, i.e., before 13.04.2023
the petitioners shall appear before the concerned
Court of Jurisdiction and file an appropriate
application for regular bail before the said Court.

02.03.2023

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To

1.The Judicial Magistrate III,
Erode.

2.The Inspector of Police,
Vishrampuri Police Station,
Kondagaon District
Chattishgarh State.

3. The Inspector of Police
Modkurichi Police Station,
Erode District.

4. The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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