



CrI.O.P.No.18913 of 2023

Orders Reserved on
25.08.2023

Orders Pronounced on
30.08.2023

CrI.O.P.No.18913 of 2023

RMT. TEEKAA RAMAN.,J.

It is a acid attack case.

2. The petitioner/A3, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 323, 324, 326(A) & 506(ii) of I.P.C in Crime No.126 of 2023 on the file of the respondent police, seeks anticipatory bail.

3.The case of the prosecution is that on 01.06.2023, when the de-facto complainant Rajesh, his brother Selvam and his sister's son Magendran were sitting in a temple viz., kannikoil in their village, A1-Kumar, A2-Raju and A3-Settu (the petitioner) were playing boat game (தாயக்கட்டை). During such time, there was a wordy quarrel between the said selvam and A1, A2 & A3- the petitioner herein, who have abused the said Selvam in a filthy language. The de-facto complainant and Magendran were trying to compromise the issue. A1 attacked the said Selvam with Beer Bottle in his stomach and also attacked back head of the said Rajesh (de-facto



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complainant). Therefore, after they took treatment in a private hospital, when they returned to home via the A1 house, the said Selvam questioned about the incident with A1. During that time, A2 and A3-the petitioner herein attacked the de-facto complainant and Magendran. A1 kumar attacked the said Selvam with beer bottle and also thrown acid on him. Hence, the case.

4. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submits that A2 has been granted bail by this Court in Crl.O.P.No.17403 of 2023 on 04.08.2023. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that, there was a fight between close relatives at about 03.00p.m., on 01.06.2023, while playing the dice. While de-facto complainant intervened in the fight between the parties, accused Kumar had stabbed the de-facto complainant's brother with broken beer bottle. Due to which, he suffered injuries and admitted at Indira Nursing Home. After treatment, de-facto complainant's brother Selvam and de-facto complainant's



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sister's sons Mahendran and Vinoth Kumar were returning to their house. At that time, when Selvam asked Kumar why he did like that for a small incident, Kumar had hit the Selvam with beer bottle. Settu and Raji had also hit Selvam with hands repeatedly. Kumar had brought acid bottle from his house and thrown acid on de-facto complainant's brother and on sister's sons Mahendran and Vinoth Kumar. Injured is discharged from the hospital. Hence, he opposed for grant of anticipatory bail to the petitioner.

6.Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.

7 (a). To make out the offence under Section 326-A and 326-B, I had an occasion to consider the same in M.Siluvai Murugan's case cited in 2018 SCC Online Mad 2332. The said case has been over ruled subsequently in the Hon'ble Supreme Court reported in 2018 SCC online SC 1930 [Maqbool Vs.State of Uttar Pradesh and another] has observed as under:-



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14.....Similarly, the High Court of Madras in M.Siluvai Murugan held that if the injury caused by use of acid is simple in nature, there cannot be any conviction under Section 326-A I.P.C. In M.Siluvai Murugan, though the High Court has analysed the legal position correctly, it has unfortunately committed a patent error in taking note of the nature of injury as simple and altering the conviction to Section 326-B I.P.C on the ground that the injury as per medical report was simple being chemical injury at twelve percent.

15.it is not the percentage or gravity of injury, which makes the difference. Be it simple or grievous, if the injury falls under the specified types under Section 326-A on account of use of acid, the offence under Section 326-A is attracted. Section 326-A would be attracted in case the requirements specified are met on an attempted acid attack."

and I find that by virtue of above said decision whether the injury is simple or not?. The weapon of the crime is being acid, it will fall under Section 326-A I.P.C as per the above decision.

(b) Based on the facts and circumstances of the case, this Court had instructed the learned Government Advocate (CrI.Side) and he produced



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the wound certificate issued by the Department of Plastic & Reconstructive Surgery, Christian Medical College Hospital, Vellore. Due to acid attack, the injured Selvam has suffered 4 kinds of injuries, i.e., second degree deep to third degree burns over face; so also for Mahendran there is a second degree deep to third degree burns forehead and for vinoth also suffered second degree deep to third degree burns face left side.

(c)The above decision of this Court as well as the Hon'ble Apex Court appears to be not brought to the notice of the co-ordinate Bench while considering the other matter in Crl.O.P.No.17403 of 2023.

8. This court has taken a view that in the matter of acid attack which has impact of disability of the future and the other aspects of the consequential effect of the acid attack of the body with seriousness has been dealt with.

9. Taking into consideration the nature and gravity of the acid attack as reflected in the medical certificate issued by the C.M.C Hospital, Vellore for the 3 victims and preliminary stage of the investigation and



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overtact against this petitioner, this Court is not inclined to grant anticipatory bail to the petitioner.

10. Accordingly, this Criminal Original Petition is dismissed.

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order in
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