



Crl.O.P.No.25671 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner herein seeks anticipatory bail in Crime No.163 of 2023 registered by the respondent Police for the offences under Section 294(b), 341, 324, 307 IPC read with 34 of IPC.

2. It is the case of the prosecution, that the son of the defacto complainant one Thirumalai @ Sivagiri, who is studying B.Com second year in Saratha Gangatharan College, Marapalam at Puducherry, had left his home on 17.08.2023 but did not return back for a long time. The defacto complainant then called his son through mobile phone at around 8.30 p.m. and it was informed that he was going to Indira Gandhi Medical College and Hospital at Puducherry by stating that he was attacked by some people with stick and knife. Thereafter, the defacto complainant went over to that hospital along with his family members and relatives and saw his son and his friends Vijayakumar and Madankumar, who had come in auto to the emergency department. There were two cuts on the back on his head and two stabs wound on his stomach. The emergency doctor had treated the injured and after that, the defacto complainant asked his son as to what happened



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and he had stated about the nature of offence and whatever was stated by the injured was reduced in writing by the defacto complainant as a complaint before the respondent police. Hence, this case.

3. The investigation would start only by examining the injured person to find out as to what actually happened. At first, the learned counsel for the petitioner pointed out that A2 to A5 had been arrested and had been granted bail. Later, the learned counsel for the petitioner also stated that the petitioner herein is A1 but in the FIR, it shows that the complaint was lodged by the defacto complainant, who it must be again stated was not a direct eye witness but he only stated what was told to him by the injured person. There is no overt act mentioned as against the petitioner as stabbing the injured with a knife.

4. The learned Public Prosecutor for the Union Territory of Puducherry had only pointed out the nature of the injuries which had been caused and pointed out that there were two cut injuries in the head and two stab injuries in the stomach/abdomen of the injured and therefore stated that the injuries were grievous in nature.



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5. The learned counsel for the petitioner took that statement and called upon the Court to examine the First Information Report and stated that it did not contain the statement that the petitioner carried the knife but that he carried what can be called as Uruttukattai and admits that he hit the injured. It is therefore stated by the learned counsel for the petitioner that the learned Public Prosecutor for the Union Territory of Puducherry was trying to mislead the Court. But Section 34 of Indian Penal Code is also shown as one of the offences. Then everybody who were shown as accused will necessarily have to explain each and every injury whether it was caused by them or by the other persons. Once there is a common intention then all the accused persons will be simultaneously charged with the major offences. The major offence here in this case is Section 307 IPC. Only after investigation can the actual overt act as against each of the accused be dissected but not at this particular stage.

6. It is also contended by the learned Public Prosecutor for the Union Territory of Puducherry that there are three previous cases as against the petitioner herein which are pending and he further stated that the petitioner herein is History-sheeter.



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7. The learned counsel for the petitioner stated that there is no bar in granting anticipatory bail even if there are previous cases. But however, the fact to be considered is whether the possibility of the petitioner absconding from the process of law and whether he would hamper with the evidence collected.

8. A person, who has previous history of cases being involved in the criminal offences can be said to be in a better position to interfere with the witnesses and with the investigation. The fact that A1 to A4 granted bail, would only come to the disadvantage of the petitioner since they had already been arrested and subjected themselves to the process of law and thereafter they had been granted bail. But here the petitioner seeks anticipatory bail. In view of these facts and circumstances of this case, I am not inclined to grant anticipatory bail to the petitioner herein. Accordingly, this Criminal Original Petition stands dismissed.

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