



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2023

PRESENT

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

CRL.O.P(MD)No.2639 of 2023

WEB COPY

Arumuga Selvan

...Petitioner/Accused Rank not known

-vs-

The State rep.by,
The Inspector of Police,
Arumuganeri Police Station,
Tuticorin District.
(in Cr.No.293 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No. 293 of 2022.

For Petitioner : Mr.M.S.Jeyakarthik, Advocate

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 143, 447, 323, 506(ii) IPC and Sections 3(1)(r), 3(1)(s) of the SC/ST (Prevention of Atrocities) Amendment Act, 2015 in Crime No.293 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Ganesh is that he is a Mason by profession and he is also the President of Thaikkapuram Village and on 17.11.2022 around 9.15 p.m, while he was in his house, the named accused namely Petchi Muthu, Jebastian, Chanduru, Mani had come to his house in a Two Wheeler and trespassed into his house and had abused in filthy language mentioning his caste's name and though the defacto complainant replied them that he has not damaged the flex board, they threatened him saying that they knew that the petitioner had damaged the flex board and hence, they would attack him and they have assaulted with hands and the wife of the defacto complainant had gone to the spot and raised alarm and on hearing her voice, the village people rushed there and at that time they have threatened them also. Hence, the complaint.

<https://www.mhc.tn.gov.in> The learned Counsel for the petitioner would submit that the



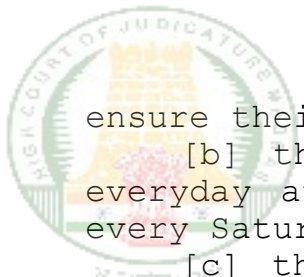
petitioner is an innocent and he has been falsely implicated in this case. He would further submit that even as per the defacto complainant Ganesh he has mentioned only 4 named accused and the fact remains is that the petitioner had put up a flex board and it was damaged by the defacto complainant and when the petitioner had questioned the same, the defacto complainant had assaulted the petitioner and thereby on the complaint given by the petitioner, a case in Crime No. 294 of 20203 has been registered by the respondent. Since because the petitioner has given a complaint, the defacto complainant had stated that the other accused have assaulted him only on the instigation of the petitioner. He would further submit that the petitioner also belongs to the Scheduled Caste community and the petitioner is a neighbour and relative of the defacto complainant and since the petitioner also belongs to Scheduled Caste Community, the provision of SC/ST Act cannot be made out against the petitioner. He would also submit that as per the complaint assault has been committed only on account of political rivalry and the dispute between the parties is not on account of they belonging to different communities and he would seek for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.side) would submit that the defacto complainant had earlier damaged the flex board put up by the petitioner and in retaliation, the petitioner had instigated the other accused who had gone to the house of the defacto complainant and trespassed into his house. They have also assaulted him and they have called him by his caste's name. However, the petitioner was not present in the scene of occurrence. He would strongly object for grant of anticipatory bail to the petitioner.

5. Heard and perused the materials available on record. Taking into consideration the facts and circumstances of the case and that the incident had not happened on account of communal rivalry and further the petitioner also belongs to the Scheduled Caste community, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 Sessions Judge, Special Court for Exclusive Trial of cases under SC/ST (POA) Act, (PCR Court), Tuticorin, 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 Judge 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



ensure their identity.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Saturday at 6.30 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 Judge/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Judge/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/-

08/02/2023

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

PNM

TO

- 1 THE SESSIONS JUDGE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER SC/ST (POA) ACT, (PCR COURT), TUTICORIN.
- 2 THE INSPECTOR OF POLICE ARUMUGANERI POLICE STATION, TUTICORIN DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.2639 of 2023

Date :08/02/2023

VA/SBN/SAR-3/22.02.2023/3P/4C

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