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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/01/2023

PRESENT

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

CRL OP(MD). No.1111 of 2023

Kannan, ... Petitioner/Accused Rank Not Known

Vs

State Rep.by
The Inspector of Police,
Thirugokarnam Police Station,
Madurai District.
Crime No. 373 of 2022. ... Respondent/Complainant

For Petitioner : M/s.Charmurugan B,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.373 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 341 and 307(i) of I.P.C., in Crime No.373 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Balasubramanian, who is an ex-panchayat president of Peraiyur Village, is that on 08.12.2022 at about 06.00 p.m., he went to Namanasamuthiram Village and returned towards his village in his bike, two unidentified persons restrained him and hacked him with aruval, resulting in him sustaining head injuries. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. The learned counsel for the respondent would further submit that as per the FIR, no one has been



named in the FIR and in the FIR, the de-facto complainant as referred to two unidentified persons. He would further submit that the petitioner now understands that a subsequent statement has been recorded from the victim, in which, he has stated that the persons could have attacked him on the instigation of the petitioner. He would further submit that it is only on the suspicion of the de-facto complainant, the petitioner's name has now been implicated in this case. He would also submit that one of the assailant, namely, Vijay has been granted anticipatory bail by this Court in Crl.O.P.(MD)No.22818 of 2022, dated 04.01.2023 and even as per the prosecution, the petitioner was not present at the scene of occurrence.

4.The learned Government Advocate (Crl. side) would submit that on the instigation of the petitioner, the other person, namely, Vijay and another unknown person assaulted the de-facto complainant. He would further submit that as far as this petitioner is concerned, two previous cases are pending against him and he would object for grant of anticipatory bail.

5.In reply the learned counsel for the petitioner would submit that out of two cases, one case was registered under the Mines and Minerals Act and another was registered in respect of the dispute with regard to the temple festival. He would further submit that the petitioner is ready to abide by any stringent condition that may be imposed on him.

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

7.Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioner, with certain conditions:

8.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 No.II, Pudukkottai, 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, daily at 10.30 a.m. and 05.30 p.m., until further orders.

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

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[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 petitioner 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/-
23/01/2023

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/02/2023

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

SJI
TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
PUDUKKOTTAI.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THIRUGOKARNAM POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.B.CHARMURUGAN, Advocate (SR-1067[I] dated 24/01/2023)

ORDER
IN
CRL OP(MD) No.1111 of 2023
Date :23/01/2023