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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/02/2023

PRESENT

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

CRL OP(MD) . No.3760 of 2023

Malik Mohamed

... Petitioner/Accused No.2

Vs

The State Rep.by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
(Crime No. 74 of 2023)

... Respondent/Complainant

For Petitioner : R.Rajesh

For Respondent : Mr.A.Albert James,

Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

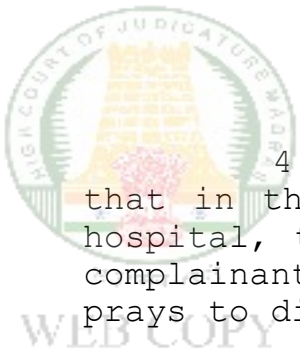
PRAYER :- For Anticipatory Bail in Crime No. 74 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 323, 324, 341, 506(ii) I.P.C, in Crime No.74 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that there was a previous enmity between the parties, over which, on 15.02.2023, the accused persons waylaid the defacto complainant, abused him with filthy language and also assaulted him. They also threatened him of dire consequences. Hence, the complaint.

3. The learned counsel for the petitioner submitted that there was a previous enmity between the parties, over which, a false complaint has been foisted against him. The injured has been discharged from the hospital and the petitioner is not having any bad antecedent to his credit. Hence, prays to release the petitioner on anticipatory bail.



4.The learned Government Advocate (Crl.Side) submitted that in this case though the injured has been discharged from the hospital, the accused persons have abused and assaulted the defacto complainant and the investigation is not yet completed. Hence, prays to dismiss the petition.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6.Taking into consideration the facts and circumstances of the case and considering the fact that the injured has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Padmanabhapuram**, 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 police everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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 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]**; and;



[f] if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
27/02/2023

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/03/2023

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

TO

- 1 THE JUDICIAL MAGISTRATE,
PADMANABHAPURAM
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOL.
- 3 THE INSPECTOR OF POLICE
THUCKALAY POLICE STATION, KANYAKUMARI
DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to R.RAJESH Advocate SR.No.3024

ORDER
IN
CRL OP (MD) No.3760 of 2023
Date :27/02/2023

MGJ/SAR IV/08/03/2023/3P/6C