



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 02/03/2023

PRESENT

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

CRL OP(MD) . No.3996 of 2023

Madhan

... Petitioner / Accused No.22

Vs

State through
The Inspector of Police,
Seevalapaeri Police Station,
Tirunelveli District.
(Crime No.219 of 2022.)

... Respondent / Complainant

For Petitioner : M/s.Mohamed Riyas M, Advocate

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

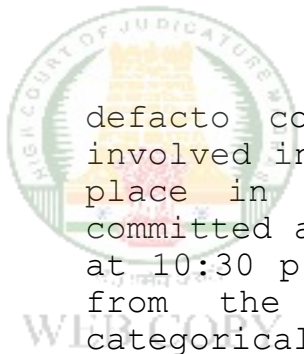
C-6AB. For Anticipatory Bail in Crime No.219 of 2022 on the file of the Respondent police.

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 341, 147, 148, 149, 109, 294(b), 302, 506(ii), 120(b), 114 I.P.C, in Crime No.219 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that on 10.11.2022, due to a caste rivalry, the petitioner along with the other accused have waylaid the victim Mayandi and committed murder of him by indiscriminately inflicting cut injuries on him with Aruval. Hence, the complaint.

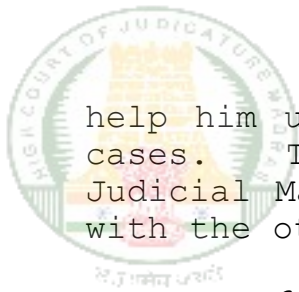
3. The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in the murder case as A12, based on communal rivalry between two communities. It is alleged to be a case of day light murder and the



defacto complainant had given details of several persons involved in the offence and the name of the petitioner does not find place in the FIR. The alleged occurrence stated to have been committed at 4:30 p.m., and admittedly, the complaint has been given at 10:30 p.m., though the Police Station is within a range of 2 km from the place of occurrence. The defacto complainant has categorically spoken about the role attributed to each of the persons mentioned in the FIR and even thereafter, it has been admitted by the defacto complainant that the complaint has been given to the respondent police, after due deliberation with elders and relatives in the community. The petitioner, who is a prominent person in the accused's community has been later roped in the case, based on the confession recorded from A1, who was arrested in this case. He would further submit that it is modus operandi of the rival communities to include an important person in the opposite community, so as to prevent them from helping the accused. He would submit that the fact remains that now the co-accused A17, who is similarly placed as that of the petitioner, has been released on anticipatory bail in Crl.OP.No.2116 of 2023, dated 15.02.2023 and now the investigation has been completed and the charge sheet has been laid before the learned Judicial Magistrate, No.III, Tirunelveli and taken on file as PRC No.29 of 2023. The learned Magistrate had also issued summons to the petitioner to appear before the Court. Other co-accused, who have already been released on bail, have been served with the copies and on their appearance the case has been committed to the Court of Sessions and numbered as S.C.No.166 of 2023, on the file of learned Principal District Judge, Tirunelveli. He would submit that the entire investigation is over and there is no requirement of custodial interrogation of the petitioner. There is also no allegation against the petitioner that he tampered with the evidence and threatened the witnesses in this case. Hence, prays to release him on anticipatory bail.

4.The learned Government Advocate (Crl.Side) would submit that it is a case, where on account of community rivalry, the petitioner had conspired with other accused persons and committed the murder. Though the petitioner's name is not found in the FIR, he was one among the persons, who conspired to commit the murder of the deceased. There are eight previous cases pending against the petitioner, out of which, one is under Section 302 IPC, on the file of Thalaiyuthu Police Station and Crime Nos. 202 of 2021, 527 of 2021 on the file of Tirunelveli Junction Police Station are registered for offence under Section 307 IPC. Few other cases are also registered under NDPS Act. Hence, he opposes for grant of bail.

5.In reply, the learned counsel for the petitioner would submit that in the earlier cases, the petitioner has been implicated based on communal rivalry and in both cases registered for the offence under Section 307 IPC, there is absolutely no injury to the alleged victims. It would go to show that those cases were falsely registered. Further false cases under the NDPS Act are registered to



help him under continued custody and he is on bail in all other cases. The petitioner is ready to appear before the learned Judicial Magistrate, so that it would enable the petitioner to join with the other accused, for facing the trial.

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

7. In this case, the name of the petitioner does not find place in the FIR. It is submitted by the prosecution that the petitioner is one among the accused who conspired to the murder and the arrested accused has confessed about the involvement of the petitioner in the Crime. Perusal of typed set of papers reveal that in the previous cases pending against the petitioner, particularly, under Section 307 IPC, no body has been injured. The Petitioner has been granted bail in all cases. Further, investigation in this case has been completed and a final report filed in PRC No.29 of 2023. The case in respect of some of the co-accused has been committed to the Court of Sessions in S.C.No.166 of 2023. There is no allegation that during the course of investigation, the petitioner has either threatened or tampered any of the witness. The petitioner was also issued with summons by the learned Magistrate for appearance on 30.03.2023. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. 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 No.III, Tirunelveli**, 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:

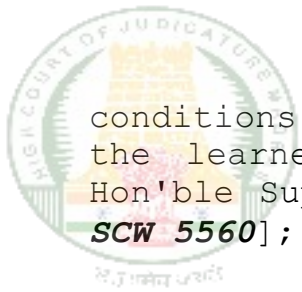
[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the learned Judicial Magistrate No.III, Tirunelveli on all working days 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 or 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/-

02/03/2023

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

PNM

To

1.The Judicial Magistrate No.III,
Tirunelveli.

2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
Seevalaperi Police Station,
Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to MOHAMED RIYAS Advocate SR.No.3193(I) dated 02.03.2023.

ORDER

IN

CRL OP(MD) No.3996 of 2023

Date :02/03/2023

ED/BUC/SAR-3 (17/03/2023) 4P 6C