



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 13.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.M.P.(MD)No.3155 of 2021

in

Crl.O.P(MD)No.4051 of 2021

WEB COPY

Mohamed Shajahan ...Petitioner/Defacto complainant
Vs.

1.Samsammal

2.Avvavi

3.Rishwan @ Mohamed Riswan

4.Aashick

5.Aazhad

... Respondents 1 to 5/Accused 1, 2, 4, 5 & 6

6. State represented by the

Inspector of Police,

Sayalkudi Police Station,

Ramanathapuram District

(In Crime No.88 of 2011) ...Respondent No.6/Complainant

PRAYER: Criminal Revision Petition is filed under Section 439(2) Cr.P.C., to cancel the anticipatory bail granted to the respondent Nos.1 to 5/Accused Nos.1,2,4, 5 & 6 in Crl.O.P(MD)No.4051 of 2021 dated 18.03.2021.

For Petitioner

: Mr.R.Karunanidhi

For R6

: Mr.B.Thanga Aravindh

Government Advocate (Crl.side)

For R1 to R3 & R5

: Mr.R.Venkateshwaran

ORDER

This Criminal Miscellaneous Petition has been filed to cancel the anticipatory bail granted in Crl.O.P(MD)No.4051 of 2021 dated 18.03.2021 in respect of Crime No.88 of 2021 on the file of the sixth respondent herein.

2. The petitioner lodged a complaint alleging that the respondents 1 to 5 herein assaulted with the deadly weapon and also caused grievous head injuries to the petitioner and others. On receipt of the complaint, the sixth respondent registered FIR in Crime No. 88 of 2021 for the offence under Sections 147, 148, 294(b), 323, 324 and 506(ii) IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. In respect of the same occurrence, a counter case has also been filed on the basis of the complaint given by the respondents 1 to 5 herein in Crime No.89 of 2021 on the file of the very same police namely the sixth respondent herein as against the petitioner and others. Both the group of



persons were obtained anticipatory bail in respect of the (), 88 and 89 of 2021.

3. After complying with the condition, the respondents 1 to 5 went to their native and again another FIR has been registered against them in Crime No.138 of 2021 for the offences under Sections 147, 148, 341, 294(b), 324 and 307 IPC.

4. The learned counsel for the petitioner vehemently contended that after complying with the condition in the earlier case, the respondents 1 to 5 involved in another case and therefore, the order of anticipatory bail granted may be cancelled. The learned counsel has produced some photographs which would reveal that the defacto complainant sustained some head injury.

5. Per contra, the learned counsel for the respondents 1 to 5 would submit that the respondents 1 and 2 are ladies and they were not present in the scene of occurrence since they already went to Chennai in the Omni Bus. One of the respondent is also studying in Russia and he is in the verge of completion of his MBBS degree. Therefore, they were not involved in any occurrence as alleged by the petitioner. In fact, the petitioner is a drunkard and he himself fell down from the bicycle and a false case has been foisted against the respondents 1 to 5. They were granted anticipatory bail and in pursuant to the grant of anticipatory bail, the respondents 1 to 5 herein have duly complied with the condition and now investigation is pending on the file of the sixth respondent.

6. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the accused in all the three cases are relatives and they are not co-operating for investigation and therefore, the sixth respondent could not complete investigation and to file a final report and FIRs in Crime Nos.88, 89 and 138 of 2021 are pending for investigation.

7. A perusal of record would show that both groups are relatives and after obtaining anticipatory bail, both groups are regularly appearing before the sixth respondent police and thereafter, both the group have not co-operated for investigation and hence, investigation is pending. The only ground raised by the petitioner is that after granting anticipatory bail in Crime No.88 of 2021, the respondents 1 to 5 again involved in the same kind of occurrence. On a perusal of FIR registered in Crime No.138 of 2021, it is seen that the petitioner was attacked with deadly weapon by the respondents 1 to 5 herein. Though the main ground raised to cancel anticipatory bail is that the accused misused their liberty by indulging in similar or other criminal activities, it is true that both the groups are relatives and counter case is also registered against the petitioner and others. In fact, the petitioner's group is also not co-operating for investigation and



Therefore, this Court finds no valid ground to cancel the anticipatory bail granted to the respondents 1 to 5 herein. Accordingly, this petition is dismissed.

8. However, the sixth respondent herein is directed to complete the investigation in Crime Nos.88, 89 and 138 of 2021 and file a final report before the concerned court within a period of 12 weeks from the date of receipt of a copy of this order.

sd/-
13/03/2023

/ TRUE COPY /

/03/2023

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

CM

TO

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KADALADI.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3. THE INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION
RAMANATHAPURAM DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.VENKATESWARAN, Advocate (SR-4176[I] dated
14/03/2023)

ORDER
IN
CRL MP (MD) No.3155 of 2021
IN
CRL OP (MD) No.4051 of 2021
Date :13/03/2023

RK/MMS/SAR-4 (20/03/2023) 3P/6C