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CRL OP(MD).A



23

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

Date : 04/07/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.11918 of 2023

G Dinesh Kumar

... Petitioner/Accused No.2

Vs

The State Rep.by
The Inspector of Police,
Pattukottai Police Station
Thanjavur District
(Crime No.17 of 2021).

... Respondent/Complainant

For Petitioner : M/s.Dilipkumar.N,

For Respondent : Mr.B.Nambiselvam,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

To grant Anticipatory Bail to this petitioner and direct his release on bail in the event of his arrest or surrender in connection with the case in crime number 17 of 2021 on the file of the respondent police now pending in PRC No.24 of 2023

ORDER : The Court made the following order :-

The petitioner/Accused herein, who apprehends arrest at the hand of the respondent for the alleged offence under Sections 147, 148, 120(B), 302 IPC r/w 25(1A), 27(2) of Indian Arms Act, in Crime No.17 of 2021, on the file of the respondent police, seeks bail.

2.The earlier application in Crl.O.P(MD)No.20570 of 2021 was dismissed by me on 04.01.2022. Later, similar application was moved before the vacation Court in Crl.O.P(MD)No.9255 of 2023 and it was also dismissed since there was no change in circumstances. After this third petition filed by the petitioner stating that the investigation has been completed, no incriminating materials have been collected against the petitioner so change of circumstances has



to be taken into account.

3.Per contra it is contended by the learned Additional Public Prosecutor that it is a case of double murder. The petitioner harboured the assailant supplied the vehicles for the purpose of committing murder. It is a case of retaliation murder. A special team has been formed to arrest the accused. So he strongly object to release the petitioner on anticipatory bail.

4.The learned counsel for the petitioner draw the attention of this Court's order in Crl.O.P(MD)No.20570 of 2021 in paragraph No.6, which reads as under:

"6.Whatever it may be, section 120(B) IPC inclined in this case. Reading of the entire CD file shows that it is a group rivalry between two groups and this petitioner appears to have helped the co-accused. So the involvement of this petitioner can only be brought to light during the course of investigation. Since it is a case of group rivalry , the custodial interrogation of the petitioner may also be required. Since it is a case of murder, for granting anticipatory bail, the petitioner must bring on circumstances, warranting the exercise of the jurisdiction under section 438 of Cr.P.C. Except stating that this petitioner has not involved in any such offence, as mentioned in the CD file, no compelling circumstance has been brought on record. So it is not a fit case to grant anticipatory bail to the petitioner."

By pointing out the above said paragraph, he would submit that the offence under section 120(B) is not now included; Absolutely he got no motive or enmity with the deceased. Even as per the case of prosecution, the above said place which belongs to him was used by the co-accused for staying. According to him this will not be sufficient enough to rope this petitioner in the offence.

5.Once again CD file is called and perused. It is not correct to state that the offence under section 120(B) is not mentioned in the final report. The offences mentioned in the final report are Sections 147, 148, 302, 120(B) IPC, 25(1A), 27(2) of Indian Arms Act.

6.Reading of file shows that the accused had committed gruesome murder. The co-accused used the vehicle, which belongs to the petitioner and for several days they were staying in a grove belongs to the petitioner. Even after the murder, the co-accused used the vehicle of the petitioner to escape. The allegations are serious in nature. What was the motive of the petitioner to help the assailants is a matter for trial. It is also seen that this petitioner also travelled with the co-accused to several places, after the murder. There are sufficient prima facie materials collected during the course of investigation to implicate the



petitioner in the offence. Further the manner in which the said murder committed shows the brutality.

7.I find that this is not a fittest case to exercise the discretionary power in favour of the petitioner. The argument of the petitioner that he is not involved in the offence and only the co-accused stayed for some days are the only allegations, which entitled him to claim anticipatory bail deserves no consideration at all.

8.The petitioner has to surrender before the respondent police and custodial integration will bring out further facts. I find no reason to entertain this petition.

9.Accordingly this criminal original petition stands dismissed.

sd/-

04/07/2023

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/ 07 /2023

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

PNM

TO

1. The Inspector of Police,
Pattukottai Police Station
Thanjavur District(Crime No.17 of 2021).
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-10219[I] dated 05/07/2023)

ORDER

IN

CRL OP(MD) No.11918 of 2023

Date :04/07/2023

RD(07/07/2023) 3P 4C