



Crl.A.No.1303 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1303 of 2024

Thiyagu @ Thiyagarajan,

... Appellant/Accused - A17

Vs.

1.The Assistant Commissioner of Police,
Office of the Assistant Commissioner of Police,
Redhills Range,
Redhills, Chennai.

2. The State Rep. by:-
The Inspector of Police,
E-4, Kattur Police Station,
Chennai.
(Crime No.125/2022)

...Respondents/Complainant

3.Manikandan

... Respondent/Defacto Complainant

PRAYER: Criminal Appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes Amendment Act, to set aside the dismissal order of Anticipatory Bail passed in Unnumbered Crl.M.P.filing No. ATN20230000924C20400025 dated 12.09.2024 by the learned Principal



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District and Sessions Judge, Thiruvallur and consequently direct the learned Principal District and Sessions Judge, Thiruvallur to take the Anticipatory Bail petition in S.C.No.128/2024 filed by the appellant on the file and dispose the same on merits.

For Appellant	:	Mr.K.Madhan
For R1 and R2	:	Mr.Dr.C.E.Pratap Government Advocate (Crl. Side)
For R3	:	Mr.Jayashree Dharbar Legal Aid Counsel

JUDGMENT

The appeal has been filed, aggrieved by the dismissal of the petition filed under Section 438 of the Cr.P.C., seeking anticipatory bail.

2. The learned counsel for the appellant/petitioner/A17 would submit that the appellant was not aware of the case pending against him; that the respondent police never sought for arrest of the appellant; that the appellant has been falsely implicated for the offences under Sections 147, 148, 302, 120B, 149, 341 and 450 of the IPC under Section 3 (2)(v) of the SC/ST



(Prevention of Atrocities) Act, 1989 and that the respondents have now filed the final report before the Special Court, which is pending trial in S.C.No.128 of 2024; and that since the petitioner was not apprehended during investigation and the co-accused have all been arrested and released on bail, the detention of the appellant is not necessary for the purpose of the prosecution and the appellant/A17 would comply with any stringent conditions to ensure his presence in the trial and hence, prayed for grant of anticipatory bail.

3. The learned counsel for the third respondent/*de-facto* complainant would submit that the order impugned is in accordance with law; that the appellant has not made out any extraordinary circumstances for the grant of anticipatory bail, and therefore, the appellant is not entitled to anticipatory bail as prayed for.

4. The learned Government Advocate (Crl.Side), for the first and second respondents, would submit that the petitioner was shown as absconding in the final report; and that the petition for anticipatory bail is



not maintainable, and therefore, there is no reason to interfere in the impugned order.

5. Admittedly, all the accused except the appellant/A17 were arrested during the investigation and all the accused, except A7, were released on bail during the investigation. It is also admitted that the appellant/A17 is a practising lawyer in the very same court and therefore, there is no reason for him to abscond and the final report filed by the second respondent showing him as an absconding accused may not be correct. The order rejecting the petition for anticipatory bail cannot be faulted. However, the fact is that the appellant was not arrested during the investigation. The arrest and detention during investigation and trial is not required in all cases. This Court is of the view that if the appellant is directed to execute a bond with sureties in terms of Rule 24 of the Criminal Rules of Practice, 2019 to ensure his presence before the trial Court, it would subserve the interest of justice.

6. Therefore, considering the facts and circumstances, this Court is inclined to direct the appellant to 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 learned Principal District and Sessions Judge, Tiruvallur

District and on further conditions that:

(i) the appellant/accused shall appear before the concerned Trial Court on all hearing dates without fail.

(ii) the appellant/accused shall not commit any offences of similar nature;

(iii) the appellant/accused shall not abscond either during investigation or trial;

(iv) the appellant/accused shall not tamper with evidence or witness either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant 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]***;

(vi) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.



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7.In view of the above, this Criminal Appeal is ordered accordingly.

12.11.2024

Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Copy to:

- 1.The Principal District and Sessions Judge,
Thiruvallur.
- 2.The Assistant Commissioner of Police,
Office of the Assistant Commissioner of Police,
Redhills Range,
Redhills, Chennai.
- 3.The Inspector of Police,
E-4, Kattur Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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