



CRL OP(MD) No.2811 of 2024

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

Thursday, the Twenty Second day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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P.SUMATHI

... PETITIONER / ACCUSED NO.2

Vs

1 THE INSPECTOR OF POLICE
NARSIPATNAM PROH. AND EXCISE POLICE STATION,
VISAKHAPATNAM DISTRICT.
FILE NO.941/2013-2014.

2 THE INSPECTOR OF POLICE
Y. OTHAKADAI POLICE STATION,
MADURAI DISTRICT.

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.AJMAL KHAN, Senior counsel for
Mr.E.MOHAMMED ABBAS, Advocate

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

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

PRAYER:

To enlarge the Petitioner on Inter-State transit bail for a period of 8 weeks in the event of her arrest or surrender in File No.941/2013-2014 on the file of 1st Respondent Police so as to enable the Petitioner to seek regular Anticipatory Bail from the Court of competent jurisdiction.



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ORDER: The Court Made the following order :-

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The petitioner, who apprehends arrest at the hands of the respondents Police pursuant to the summon issued by the second respondent for alleged offences punishable under Sections 8(c) r/w 20(B)(ii)(C) of NDPS Act, 1985, in File No.941 of 2013 - 2014 on the file of the first respondent Police, seeks anticipatory bail.

2. The first respondent police has issued summons to the petitioner for appearance of her in connection with the complaint given by the de-facto complainant.

3. The learned counsel for the petitioner would submit that false complaint has been given against the petitioner and she has nothing to do with the said allegations. He further submitted that Interstate Anticipatory bail may be granted to the petitioner so as to enable her to move the appropriate jurisdictional Court in the State of Andhra pradesh for necessary relief.

4. Heard the learned Additional Public Prosecutor appearing for the State.



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5. The issue as to whether, in respect of the person who has been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if her arrest is sought within the jurisdiction of this Court, irrespective of the fact that she is a resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, came up for consideration before the Division Bench of this Court in the case of *S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras* reported in 1992 L.W.(CrI).475. After elaborate discussions, decisions and considering the ratio laid down by the *Patna High Court in Syed Safrul Hassan v. State* has passed the following order:-

“For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons



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to move the Court which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

6. Thereafter, a learned Single Judge of this Court in the case of **P.Thangavelu and others v. State, rep. By the Inspector of Police and other** reported in 2017 (2) **MWN (Cr.) 633** has passed the following orders,

"9.Thus , it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10.Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:



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(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Inerim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

7. In view of the decisions cited supra, this Court is inclined to grant anticipatory bail to the petitioner. The petitioner is directed to be enlarged on bail in the event of arrest or on her appearance before the first respondent Police and on further condition that:



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8. In view of the decisions cited supra, this Court is inclined to grant **interim anticipatory bail** to the petitioner. Accordingly, interim anticipatory bail is granted to the petitioner for a period of **six weeks** from the date of receipt of a copy of this order. The petitioner is directed to be enlarged on bail in the event of arrest or on her appearance before the first respondent Police and on further condition that:

(i) the Petitioner shall execute a Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, to the satisfaction of the Respondent Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, the petitioner shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

sd/-
22/02/2024

/ TRUE COPY /

26/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS



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TO
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- 1 THE JUDICIAL MAGISTRATE,
MELUR, MADURAI.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
 - 3 THE METROPOLITAN SESSIONS JUDGE
CUM - I ADDITIONAL DISTRICT JUDGE,
VISAKAPATTINAM.
 - 4 THE INSPECTOR OF POLICE
NARSIPATNAM PROH. AND EXCISE POLICE STATION,
VISAKHAPATNAM DISTRICT.
 - 5 THE INSPECTOR OF POLICE
Y. OTHAKADAI POLICE STATION, MADURAI
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1 CC to M/s.E.MOHAMED ABBAS, Advocate (SR-2240[I] dated 22/02/2024)

ORDER
IN

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Date :22/02/2024

SS/SAR- /26/02/2024/7P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023