



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

Wednesday, the Thirty First day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.1449 of 2018

CHANDRAN

... PETITIONER / 9th ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KURUMBUR POLICE STATION,
THOOTHUKUDI DISTRICT
(CR.NO.39 OF 2017)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.G.THALAIMUTHARASU Advocate

For Respondent : MR.A.ROBINSON Govt. Advocate (Crl. Side)

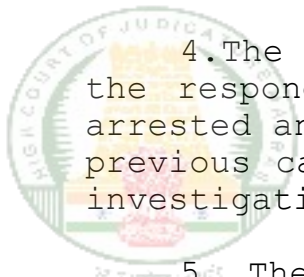
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/A9, who apprehends arrest at the hands of the respondent police for the offence under Sections 147, 294(b), 353, 506(ii) and 379 IPC., in Crime No.39 of 2017, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the respondent police registered a case stating that on 17.03.2017, while the defacto complainant along with police party were in patrol duty with regard to sand theft, they intercepted two vehicles, namely, Tata Super ACE and 407 Van came from Sethukuvaithan Village and found that the vehicle were loaded with river sand. The TATA Super ACE vehicle was driven by A1 and some others were in the backside of the vehicle. The 407 Van was driven by one Balaji and some others were in the backside of the vehicle. When the respondent police enquired them, all the accused have scolded her with filthy language and threatened her with dire consequence that if they disturb them they will kill her by dashing her with vehicle and subsequently they escaped from the place by taking the vehicles.

3.The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case, he has not committed any offence as alleged, he is no way connected with the alleged offence. The respondent police without conducting proper enquiry implicated the petitioner as 9th accused in the Crime No.39 of 2017 and pleads for grant of anticipatory bail to the petitioner. Hence, he prays for anticipatory bail.



4. The learned Government Advocate (Criminal side) appearing for the respondent police submitted that A1 in this case was already arrested and released on bail. He further submitted that there is no previous case is pending against this petitioner. According to him, investigation is not completed.

5. The submissions made by the learned counsel on either side are considered. It is alleged that during the time of occurrence, the petitioner herein along with other accused committed the offence of sand theft, when the respondent police enquired the act done by the petitioner herein, all the accused in this case have threatened the defacto complainant and restrained the Police Officer from doing their duty. In earlier, the anticipatory bail application filed by the petitioner was dismissed for the reason that the petitioner is having previous bad antecedents. Now, according to representation made by the learned Government Advocate (Criminal Side) that the petitioner is the first offender. So, considering the nature of offence committed by the petitioner, custodial interrogation of the petitioner may not necessary for completing the investigation. Therefore, for the reasons stated above, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, he is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Srivaikuntam, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

- (i) the petitioner shall report before the respondent Police daily at 10.00 a.m. until further orders.
- (ii) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iii) the petitioner shall not abscond either during investigation or trial.
- (iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the petitioner shall stand automatically cancelled and 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 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].

sd/-

31/01/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, SRIVAİKUNTAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3 THE INSPECTOR OF POLICE
KURUMBUR POLICE STATION, THOOTHUKUDI DISTRICT

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

+1. CC to M/S.G.THALAIMUTHARASU Advocate SR.No.1842

ORDER

IN

CRL OP(MD) No.1449 of 2018

Date :31/01/2018

MKV-CM-VR-SAR 1/8.2.2018/3P-6C