

Madras High Court
N.K.K.P.Raja vs For on 2 September, 2009
DATED : 02.09.2009

CORAM

THE HON'BLE MR.JUSTICE K.N.BASHA

CrI. O.P. No.18231 of 2009

N.K.K.P.Raja .. Petitioner/A-14

Vs.

The State represented by

The Deputy Superintendent of Police,

CB CID, Coimbatore Unit,

Crime No.650 of 2008

(Perundurai Police Station)

Prayer : Petition under Section 438 Cr.P.C. praying to grant anticipatory bail to this petition in the event of his arret or on his appearance before any court in connection with the case in P.R.C.No.28 of 2009 pending committal on the file of the District Munsif-cum-Judicial Magistrate, Perundurai. * * *

For Petitioner : Mr.N.Jothi,

for M/s.N.Manokaran

For Respondent : Mr.A.Saravanan, GA (CrI.Side)

For Intervener : Mr.K.M.Vijayan, Sr.Counsel

(Victim) for Mr.N.Chinnaraj

For Intervener : Mr.B.Kumar, Sr.Counsel

(De-facto Complainant) for Mr.N.Chinnaraj

ORDER

The petitioner, who has been arrayed as A-14 out of 30 accused in this case, apprehends arrest on the basis of the issue of Non-Bailable Warrant issued against him after filing charge sheet in this case in P.R.C.No.28 of 2009 on the file of the District Munsif-cum-Judicial Magistrate, Perundurai, for the alleged offence under Sections 147, 148, 448, 452, 365, 354, 386, 395, 427, 506 (ii) and 120(b) IPC and under Sections 3 and 4 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. 2.1. Mr.N.Jothi, learned counsel for the petitioner submitted that the petitioner has been implicated on the allegation of conspiracy and his name was not mentioned in the First Information Report (F.I.R.) which was sent through post and registered in Crime No.650 of 2008. It is contended that there are only general allegations made against the petitioner to the effect

that the petitioner received phone calls from some of the assailants. It is further submitted that the further allegation is to the effect that three named persons in the F.I.R. alleged to have asked the complainant to come for a settlement talks before the petitioner, but the complainant refused to attend the said settlements and on the date of occurrence three accused persons named in the F.I.R. along with their henchmen came to the land of the complainant, started levelling the land forcibly and during the course of the said transaction, the brother of the complainant P.C.Palanisamy, brother's wife Malarvishi and their son Sivabalan were kidnapped and thereafter, they were forced to sign the registered partition deed dated 23.07.2008. 2.2. The learned counsel would further submit that in the meantime one Elangovan, son-in-law of P.C.Palanisamy, filed H.C.P.No.1092 of 2008 for production of P.C.Palanisamy, his wife Malarvishi and their son Sivabalan and the said Sivabalan was produced before this Court on 28.07.2008 and his parents were produced before this Court on 29.07.2008 and on the basis of the statement of the alleged detainee Sivabalan, the offences were altered to Sections 147, 148, 452, 447, 427, 365, 386, 379 and 506 (ii) IPC on 28.07.2008. 2.3. It is submitted that thereafter one Subramani has filed H.C.P.No.1114 of 2008 for the production of his brother-in-law one Guhamani and the said Guhamani was produced before this Court on 26.08.2008 and thereafter, both the HCPs in H.C.P.Nos.1092 and 1114 of 2008 were closed on 27.08.2008 and the orders were also confirmed by the Hon'ble Supreme Court. 2.4. The learned counsel would contend vehemently that the petitioner has been implicated due to political vendetta and at the instance of the political rivalries only with ulterior motive to scandalise the petitioner. It is contended that except making allegation of conspiracy and instigation, there is no other allegation and not an iota of legal evidence available against the petitioner to sustain the prosecution case. It is contended that the petitioner, who was a Minister of the state Government likely to receive number of phone calls from several persons for various purposes and merely because the petitioner alleged to have received some phone calls from some of the assailants, the petitioner could not have been fastened with the liability of the alleged offence. 2.5. The learned counsel would submit that as on date, all the other accused have already been released on bail by this Court and the investigation is over after examining the witnesses under Sections 161 and 164 Cr.P.C. and the final report was filed before the learned District Munsif-cum-Judicial Magistrate, Perundurai, and the same was taken on file in P.R.C.No.28 of 2009. The learned counsel would further contend that the learned Magistrate instead of issuing summons for the appearance of the petitioner, straight-away issued non-bailable warrant against the petitioner and as such, the petitioner is having apprehension of arrest at the hands of the respondent police. It is submitted that the petitioner will not evade justice or tamper with the witnesses.

3. Mr.A.Saravanan, learned Government Advocate (Crl. Side) submitted that the petitioner has been arrayed as A-14 out of 30 accused and he has been implicated on the allegation of conspiracy. It is submitted that the investigation is over and the charge sheet has been filed in this case and on filing the charge sheet, the learned Magistrate issued non-bailable warrant against the petitioner. It is further submitted that all the other co-accused have already been enlarged on bail. 4.1. Mr.K.M.Vijayan, learned senior counsel appearing for the intervener submitted that the intervener is the victim in the instant case and as such she has filed the intervening petition. It is contended by the learned senior counsel that there are enough evidence available on record to implicate the petitioner and the occurrence took place due to his instigation and conspiracy. The learned senior counsel would contend that statements under Section 164 Cr.P.C. were recorded from 22 witnesses which would reveal that the petitioner would tamper with the witnesses misusing his public office and influence as he was the former Minister of the state Government and sitting M.L.A. The learned senior counsel also contended that the petitioner has been implicated in four cases. The learned senior counsel took this Court through the observations made in respect of the petitioner in the order passed by this Court in Crl.O.P.Nos.26622, 26951, 26953, 27688, 27720 and 27988 of 2008 dated 02.012.2008 while granting the relief of bail to the other co-accused. The learned senior counsel also placed reliance on the order of this Court in H.C.P.No.1092 of 2008 dated 29.07.2008, wherein the petitioner has been impleaded as third respondent and contended that the detenus appeared and gave statements implicating the petitioner herein. The learned senior counsel lastly contended that the anticipatory bail applications of the co-accused have already been dismissed by this Court for cogent reasons and the Hon'ble Apex Court in S.L.P. (Crl.) No.7116 of 2008 etc. by order dated 03.08.2009 observed that the petitioners therein/co-accused should appear before the Court concerned and apply for regular bail and in the event of filing such application, the same shall be considered

on its own merits and as such it is open to the petitioner to surrender and file an application for recalling the non-bailable warrant before the learned Magistrate. 4.2. The learned senior counsel would place reliance on the decisions of the Hon'ble Apex Court in State V. Jaspal Singh Gill reported in 1984(3) SCC 555 and State V. Anil Sharma reported in 1997 (7) SCC 187.

5. Mr.B.Kumar, learned senior counsel submitted that he is appearing for the de-facto complainant. It is contended by the learned senior counsel that the occurrence in this case took place on 22.07.2008, in which, a group of more than 200 persons ransacked the property, destroyed 200 coconut trees and the house and also kidnapped one P.C.Palanisamy, his wife Malarvishi and their son Sivabalan. It is contended that a complaint was given on the same day, but the said complaint was registered only on 24.07.2008. It is submitted that thereafter a second occurrence took place on 24.07.2008, in which, there was a further destruction of property and the de-facto complainant's house was also ransacked and in respect of the said occurrence, F.I.R. was registered in Crime No.671 of 2008 on 28.07.2009. The learned senior counsel would further submit that yet another case was registered in Crime No.800 of 2008, in which, the person who was kidnapped, died after 50 days due to the ill-treatment meted out by him at the hands of the petitioner's group. Therefore, it is contended that the anticipatory bail for the petitioner in respect of this case alone ought not to be considered in isolation and the other cases to be considered as the subsequent happenings pursuant to the earlier case is also relevant. It is contended that it cannot be stated that the offence alleged to have been committed by the petitioner is the lesser than the offence committed by the other accused, in respect of whom the anticipatory bail applications were dismissed. It is submitted that due to the lethargic attitude of the earlier investigating agency, the case was transferred to the C.B.C.I.D. as per the order of this Court and such order was upheld by the Hon'ble Supreme Court. The learned senior counsel would lastly submit that as the petitioner was absconding, non-bailable warrant was rightly issued against the petitioner by the learned Magistrate. 6.1. Mr.N.Jothi, learned counsel for the petitioner, on the other hand, submitted that in respect of Crime No.800 of 2008, the deceased died due to natural cause and as per the post-mortem certificate he died due to his old age and heart failure. It is further submitted that the post-mortem in the said case was done in a different place as per the objection of the de-facto complainant at Coimbatore in their presence. The learned counsel contended that the intervener has no right of audience. It is further submitted that a quashing petition was filed in respect of the crime No.800 of 2008 relating to an offence under Section 302 IPC and the same is partly heard and pending on the file of this Court. It is pointed out that in respect of H.C.P.No.1092 of 2008, the order was passed behind the back of the petitioner and the petitioner was not given any opportunity to put forth his contentions. The learned counsel pointed out paragraph 9 of the said Division Bench order dated 29.07.2008 to substantiate his contention that the petitioner was not heard in that H.C.P. It is contended that the intervener conveniently suppressed yet another order of the Division Bench in H.C.P.No.1653 of 2008 dated 17.11.2008 and in the said order, the Division Bench has held that only imaginary allegations levelled against the petitioner, who has been impleaded as the third respondent and he is no way responsible for the alleged kidnapping of the detenus. 6.2. Mr.N.Jothi, learned counsel for the petitioner would place reliance on the decision of the Hon'ble Apex Court in Bharat Chaudhary V. State of Bihar reported in AIR 2003 SC 4662 and the Full Bench decision of the Calcutta High Court in Shamim Ahmed V. State reported in 2003 Cri.L.J. 2815.

7. I have given my careful and anxious consideration to the rival contentions put forward by either side and thoroughly scanned through the entire materials available on record.

8. The occurrence in this case rooted through a civil dispute and as per the F.I.R. one Gnanamuthu, who hails from Coimbatore claiming that he is the power of attorney for Arulpushpagandhi, who was residing at Malaysia, and the change of patta in his father's name was not proper and as such filed a suit on the file of the District Munsif Court, Perundurai, in which, the de-facto complainant's father, defended the case. Thereafter, the said Gnanamuthu has given problems to the prosecution party and three named accused/A-1 to A-3 in the F.I.R., said to have claimed that they have purchased the property through a sale deed. The said Gnanamuthu died thereafter.

9. The crux of the allegation is to the effect that A-1 to A-3 with their influence attempted to grab the property of the de-facto complainant and the petitioner sent for the de-facto complainant for settlement talks and the same was not accepted by the de-facto complainant and thereafter, the alleged occurrence took place on 22.07.2008 in which, A-1 to A-3 along with 200 henchmen came with weapons and destroyed 200 coconut trees and ransacked house and also kidnapped one P.C.Palanisamy, his wife Malarvishi and their son Sivabalan. Pursuant to the registration of the case, H.C.P.No.1092 of 2008 was filed by one N.Elangovan to produce one P.C.Palanisamy, his wife and son Malarvizhi and Sivabalan and in the said H.C.P., the petitioner has been impleaded as third respondent. The order dated 29.07.2008 passed by the Division Bench in that H.C.P., as relied and submitted by the learned counsel for the petitioner, shows that the petitioner herein was not heard and the relevant portion in the order, i.e., paragraph No.9 is incorporated as hereunder : "9. As the affidavit by first and second detenus certain serious allegations against the respondents they shall be given opportunity to respond to the affidavit. Hence, we do not propose to express any final opinion either on the averments made in the affidavit as well the statements made by all the detenus at this stage and left those issues to be considered after the respondents file their counter."

10. It is brought to the notice of this Court that yet another H.C.P. in H.C.P.No.1114 of 2008 was filed and both the H.C.Ps, viz., H.C.P.Nos.1092 and 1114 of 2008 were ultimately closed on 27.08.2008.

11. It is seen that one N.Subramani also filed a H.C.P. in H.C.P.No.1653 of 2008 and a Division Bench of this Court passed an order dated 17.11.2008 dismissing the said H.C.P. It is seen that the petitioner has been impleaded in the said H.C.P. as third respondent and the H.C.P. was filed for production of P.Sivabalan, S/o.P.C.Palanisamy. The Division Bench while dismissing the said H.C.P. made the following observations, which is incorporated as hereunder : "9. A careful perusal of the entire materials placed on record and upon hearing the learned counsel appearing for all the parties, it is seen that the very relationship of the petitioner with the alleged detenu is doubtful. While in the affidavit filed before this Court, the petitioner has added with pen, as and afterthought that he is the uncle of the detenu, the learned counsel for the petitioner has submitted that the petitioner is the brother-in-law of the detenu. The other aspect, which has not been answered on the part of the petitioner, in spite of the objection taken to that effect by the learned counsel for the respondents, is that what made the petitioner, whose relationship with the alleged detenu itself is under a cloud of suspicion, to file the present petition, when admittedly, the parents of the detenu are very well available and when the mother of the detenu himself has lodged the complaint before the police. From these suspicious circumstances, which have not been explained by the petitioner, a legal presumption would arise that the petitioner is trying to fish out from something for his own benefit and with ulterior motives.

10. The entire investigation report submitted before us by the second respondent, wherein we find no reason to suspect anything, so as to doubt the integrity and veracity of the same, would show that the alleged detenu is hiding himself in a conspicuous place and if he is really under the illegal detention of somebody, much less under the detention of the third respondent, as has been alleged on the part of the petitioner, he might not have used either his cell phone or the cell phones of others, that too frequently changing the sim cards, so as to keep his place of stay beyond anybody's imagination and thus is keeping himself conspicuous. Therefore, in the absence of any material to doubt the investigation conducted so far by the second respondent and the material on record speaks that the alleged detenu Sivabalan is not in the custody much less illegal custody of anybody, much less the third respondent, we find no ground to entertain this petition.

11. The contention urged on the part of the petitioner that even on the date when the detenu was produced before this Court, he was under illegal custody could not also be trusted. If it is so, nothing prevented the detenu to explain the same before the Division Bench on the earlier occasion on 29.07.2008, when he was produced before the Court in H.C.P.No.1092 of 2008. When the detenus 1 and 2 have narrated before the Division bench on 29.7.2008 about the alleged incident of their kidnap, the contention now raised by the petitioner that the detenu was threatened not to reveal the truth before the Court also cannot be appreciated. A perusal of the order dated 29.7.2008 passed by a Division Bench of this Court would reveal that when a specific question was posed to him as to whether he has visited his house at Perunthurai, he has stated that he

has not visited the house and he does not know what happened to the house and however, with great reluctance he has stated that he is not prepared to tell all that had happened. This reluctance exhibited only on the part of Sivabalan, while his parents have narrated the incident before the Court, cannot be taken as if he was under a fear of threat on that date. Had he been under a threat or under the detention or illegal detention of anybody, he would have submitted before the Division bench of this Court the same fact, which would have considered to pass suitable orders for his safety and security."

12. Thereafter, certain accused filed anticipatory bail applications and they have been granted anticipatory bail and subsequently, cancelled by an order of this Court and the Hon'ble Apex Court also upheld the said order by dismissing the petition filed by the said accused in S.L.P.(Crl.) Nos. and observed as hereunder : "In our view, the petitioner should appear before the court concerned and apply for regular bail. In case such an application is filed, the same shall be considered on its own merits without being influenced by any observation made in the impugned order."

Subsequently, all the co-accused have been granted the relief of bail.

13. Thereafter, the investigation was proceeded and after completion, a final report was filed and taken on file by the learned District Munsif-cum-Judicial Magistrate, Perundurai, in P.R.C.No.28 of 2009, in which, the petitioner has been implicated as A-14 out of 30 accused.

14. With the above background, let me now consider whether the petitioner is entitled to the relief of grant of anticipatory bail in this matter ?

15. The learned senior counsel for the interveners contended mainly on the basis of merits of the case. This Court is of the considered view that this Court cannot go into the merits and demerits of the prosecution case as the same would amount to appreciation of evidence and such exercise cannot be done at this stage.

16. The Hon'ble Apex Court in M.P.Lohia V. State of W.B. Reported in 2005 SCC (CRI) 556 held that,

"9. As stated above, any expression of opinion on the merits of the case except to the extent of finding out prima facie whether the appellants are entitled to anticipatory bail or not, is likely to affect the trial. Therefore, taking into consideration the entire material available on record without expressing any opinion on the same, we think it appropriate that the appellants should be released on bail in the event of their arrest on their furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh) each and one surety for the like sum by each appellant to the satisfaction of the court or the arresting authority as the case may be."

17. In view of the principle laid down by the Hon'ble Apex Court in the decision cited supra, it is suffice for this Court to consider the sum and substance of the allegation levelled against the petitioner herein. The fact remains, as already stated, that the petitioner has been implicated only on the allegation of conspiracy and instigation on the basis of receiving certain phone calls from some of the assailants.

18. The earliest version of the de-facto complainant in the F.I.R. reveals that there are general allegations made against the petitioner. Therefore, it is needless to state that the veracity of the prosecution version is to be tested at the time of trial.

19. The learned counsel for the interveners pointed out that the petitioner has been implicated in other cases including the offence under Section 302 IPC. It is seen that a case was registered for the alleged offence under Section 302 IPC in Crime No.800 of 2008 on the allegation that the person, who was kidnapped, died after 53 days due to the alleged ill-treatment meted out to him by a group of persons and it is alleged that the group belonging to the petitioner.

20. On the other hand, it is contended by the learned counsel for the petitioner that the deceased in that matter died due to natural cause on the ground of his old age and heart failure as per the post-mortem certificate. It is also brought to the notice of this Court, as already pointed out by the learned counsel for the petitioner, that the post-mortem was also done in a different place at the instance of the de-facto complainant. Be it as it may, this Court cannot go into the details and merits in that case and the said cases have been registered as an off-shoot of the instant case and it is seen that in all these cases, the petitioner has not been involved directly even as per the admitted version of the prosecution and the petitioner was nowhere present near the scene as per the prosecution version. Added to that it is brought to the notice of this Court that in the said case, a quashing petition was filed and the same is pending as part heard matter on the file of this Court.

21. At this stage, it is to be re-iterated that a Division Bench of this Court has given a specific finding in H.C.P.No.1653 of 2008, in which the petitioner has been impleaded as third respondent, to the effect that the detenu Sivabalan is not in the custody much less illegal custody of anybody, much less the third respondent (the petitioner herein). Therefore, it is needless to state that this Court cannot take the allegations in respect of the other cases into consideration while considering the relief sought for by the petitioner in the instant case.

22. Yet another contention of the learned senior counsel for the interveners is to the effect that the petitioner is likely to tamper with the witnesses. It is seen that during the course of investigation, statements were recorded from the witnesses under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. It is seen that the investigation proceeded without any hindrance or obstacle ultimately, implicating the petitioner as A-14 while filing the final report irrespective of the fact that the petitioner was a former minister and a sitting M.L.A. Therefore, it is clear that if the allegation of tampering with the witnesses and hampering the investigation is true, the petitioner could have very well prevented his implication as an accused in this case. Now the investigation itself is over and the charge sheet has been filed and taken on file in P.R.C.No.28 of 2009 on the file of the learned District Munsif-cum-judicial Magistrate, Perundurai.

23. The learned senior counsel for the interveners also contended that as the learned Magistrate having issued the non-bailable warrant, it is open to the petitioner to surrender and move for recalling the non-bailable warrant. This Court is of the considered view that the learned Magistrate, on receipt of the final report ought to have issued summons or bailable warrant for the appearance of the petitioner, but the learned Magistrate has chosen to issue non-bailable warrant.

24. The Hon'ble Apex Court in Inder Mohan Goswami V. State of uttaranchal reported in 2007 (12) SCC 1 in respect of issuing non-bailable warrant has held as follows :

53. Non-bailable warrant should be issued to bring a person to court when summons or bailable warrants would be unlikely to have the desired result. This could be when :

It is reasonable to believe that the person will not voluntarily appear in court ; or

the police authorities are unable to find the person to serve him with a summon ; or

it is considered that the person could harm someone if not placed into custody immediately.

54. As far as possible, if the court is of the opinion that a summon will suffice in getting the appearance of the accused in the court, the summon or the bailable warrants should be preferred. The warrants either bailable or non-bailable should never be issued without proper scrutiny of facts and complete application of mind, due to the extremely serious consequences and ramifications which ensue on issuance of warrants."

25. Therefore, this Court is of the considered view that instead of issuing the non-bailable warrant straight-away the learned Magistrate ought to have issued summons or bailable warrant for the appearance of the petitioner before the Court. The issue of non-bailable would arise in the event of non-appearance before

the Court after the receipt of summons or bailable warrant. However, in view of the issuance of non-bailable warrant, the petitioner is having reasonable apprehension that he is likely to be arrested at the hands of the respondent police and also having apprehension that in the event of his appearance before the court, he may likely to be remanded to judicial custody.

26. The Hon'ble Apex Court in *Bharat Chaudhary V. State of Bihar* reported in AIR 2003 SC 4662 held that filing of charge sheet is not an impediment for granting the relief of anticipatory bail. The Hon'ble Apex Court in that decision held as hereunder :

"The fact, that a Court has either taken cognizance of the complaint or the investigating agency has filed a charge-sheet, would not by itself, prevent the concerned Courts from granting anticipatory bail in appropriate cases. The gravity of the offence is an important factor to be taken into consideration while granting such anticipatory bail so also the need for custodial interrogation. but these are only factors that must be borne in mind by the concerned Courts while entertaining a petition for grant of anticipatory bail and the fact of taking cognizance or filing of charge-sheet cannot by themselves be construed as a prohibition against the grant of anticipatory bail. The Courts, i.e., the Court of Sessions, High Court or the Supreme Court has the necessary power vested in them to grant anticipatory bail in non-bailable offences under S.438 of the Cr.P.C. Even when cognizance is taken or charge-sheet is filed provided the facts of the case required the Court to do so."

27. This Court in *Natturasu & 3 others V. State by S.I. Of police, Etc.*, reported in 1998-1-L.W. (Cr.) 103, has held that,

"Mere issuance of warrant for arrest on taking cognizance, would not affect the powers under Section 438 to grant anticipatory bail, since the issuance of warrant is yet another ground to make a plea before the High Court or the Court of Session by the accused that he has got a valid reason to believe that he would be arrested in respect of the case, which was taken on file for the accusation of non-bailable offence."

28. The Full Bench of the Calcutta High Court in *Shamim Ahmed V. State* reported in 2003 Cri.L.J. 2815 held as hereunder :

"There is no bar in filing an application under S.438 after the filing of the charge-sheet or after the issuance of a process under S.204 of the Code or after the issue of warrant of arrest in a complaint case. Such an application is maintainable at post cognizance stage of a case instituted on police report or complaint after the Court issues process like warrant of arrest for production of a person of having committed a non-bailable offence." Therefore, it is clear that issuance of non-bailable warrant is not a bar or legal impediment for granting the relief of anticipatory bail.

29. The Hon'ble Apex Court in *Joginder Kumar v. State of U.P.* Reported in 1994 (4) SCC 260 has held that,

"No arrest can be made because it is lawful for the police officer to do so. The existence of the power to arrest is one thing. The justification for the exercise of it is quite another. The police officer must be able to justify the arrest apart from his power to do so. Arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some belief both as to the person's complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter." The said principle laid down in the decision cited supra is also reiterated in a catena of decisions of the Hon'ble Apex Court.

30. As far as the instant case is concerned, now the investigation is over and the charge sheet itself filed and therefore, this Court is of the considered view that the question of custodial interrogation does not arise and as such the arrest of the petitioner is not warranted.

31. The decision cited by the learned senior counsel for the interveners, viz., State V. Anil Sharma (1997 (7) SCC 187) is in respect of a case relating to pending investigation and as such it is not applicable to the facts of the case on hand. The other decision cited by the learned senior counsel for the interveners in State V. Jaspal Singh Gill (1984 (3) SCC 555) is in respect of guidelines for granting and cancelling bail. It is needless to state that in the instant case, the investigation itself is over and the charge sheet has been filed.

32. At the risk of repetition, it is to be re-iterated that :

(1)The petitioner has been implicated as per the admitted case of the prosecution on the only allegation of conspiracy and instigation and veracity of such prosecution version remained to be tested at the time of trial ;

(2)The statements of witnesses have already been recorded under Section 161 Cr.P.C. as well as 164 Cr.P.C. and after collection of evidence and completion of investigation, charge sheet itself has been filed in this case ;

(3)The implication of the petitioner as A-14 while filing the final report itself shows that the petitioner could not have tampered with the evidence or hampered the investigation ;

(4)The issuance of non-bailable warrant itself is not a bar or legal impediment for granting the relief of anticipatory bail and further that itself is sufficient to show that the petitioner is having reasonable apprehension of arrest and remand to judicial custody on his appearance before the Court during the pendency of the non-bailable warrant. (5)The petitioner has not been implicated in other cases on the allegation of direct involvement.

(6)Neither the prosecution nor the interveners produced any materials to show any bad antecedents of the petitioner except implication of the petitioner in this case and other cases have been registered as off-shoot of the instant case.

(7)The petitioner, being a sitting M.L.A. the question of fleeing from justice not at all arises.

33. In view of the foregoing reasons, this Court has come to the irresistible conclusion to grant the relief of anticipatory bail to the petitioner on the following conditions :

(i) The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum to the satisfaction of the learned District Munsif-cum-judicial Magistrate, Perundurai, or to the satisfaction of the arresting officer, namely, the respondent police ; (ii) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court ;

(iii) The petitioner shall appear before the trial Court during the effective hearings and shall co-operate for the speedy disposal of the trial ;

34. This Court is also constrained to direct the trial Court to expedite the trial as expeditiously as possible.

gg