



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

Thursday, the Thirteenth day of August Two Thousand Fifteen

PRESENT

THE HON'BLE MR JUSTICE K.KALYANASUNDARAM

CRL OP(MD) No.15460 of 2015

SIVAGANAM

... PETITIONER/ACCUSED (RANK NOT KNOWN)

Vs

THE INSPECTOR OF POLICE
AVANIYAPURAM POLICE STATION,
MADURAI.(CRIME NO. NOT KNOWN OF 2015) ... RESPONDENT/COMPLAINANT

For Petitioner : M/S D.BALAMURGAPANDI Advocate

For Respondent : Govt. Advocate (Crl. Side)

For Intervenor : M/S.C.JAWAHAR RAVINDRAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioner who is arrayed as sole accused in Crime No.880 of 2015, apprehends arrest at the hands of the respondent police for an alleged offence punishable under Sections 294(b), 506(i), 427, and 379 of IPC (NH) on the file of the respondent police, seeks anticipatory bail.

2. According to the de facto complainant viz., Selvamani, he is the Trustee of Arulmigu Mela Kingili Natha Swamy Temple and on 02.08.2015 and 06.08.2015 the accused has damaged the fencing and stolen the stones value of Rs.25,000/- and also threatened the de facto complainant with dire consequences.

3. The learned counsel for the petitioner submitted that the disputed area is a public pathway belonging to the Corporation, which was encroached upon by the de facto complainant and they have put up wire fencing recently. He further submitted that when the petitioner's father was alive, he instituted a suit in O.S.No.1578 of 1992, before the District Munsif Court, Madurai, for permanent injunction. Though the Civil Court has held that the disputed area is a public pathway, however dismissed the suit, on the ground that the petitioner did not ask for declaratory relief, which is also confirmed by the Appellate Court in A.S.No.45 of 1996.

4. The learned counsel for the petitioner further submitted that due to the death of the original plaintiff viz., father of the petitioner, he did not pursue the case and for the livelihood he had gone to other place. He further contended that petitioner's aged mother is residing in the ancestral property. The de facto complainant often harassed her and obstructed her from entering on the house, for which the earlier complaint was given to the Police, but, they did not take action. The learned counsel further submitted that the petitioner's mother has given representation



to the Commissioner of Madurai Corporation on 19.06.2014, for removal of encroachment made by the de facto complainant and on the basis of the representation, order was passed, which is also challenged by the de facto complainant in O.S.No.522 of 2014. He further submitted that the petitioner is an innocent and he has been falsely implicated in this case.

5. Per contra, the learned counsel for the intervenor submitted that the property belongs to the Temple and the earlier suit initiated by the father of the petitioner was dismissed and in stead of filing further appeal, the accused has taken law into his hands and damaged the fencing and also stolen stones of the de facto complainant. The learned counsel further submitted that even father of the petitioner had admitted in his evidence that he does not have any right to use this passage, as he is having alternative access to his property and even in the year 1992, a case was registered against the petitioner and his father in Crime No.459 of 1992 and therefore, he is not entitled to anticipatory bail.

6. Heard the he learned counsel Government Advocate (Crl. Side).

7. Considering the nature of allegations made against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No- VI, Madurai, Madurai District and on executing 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 Magistrate concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.00 am for a period of two weeks and thereafter, as and when required for interrogation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

8. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
13/08/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE JUDICIAL MAGISTRATE NO.VI, MADURAI.
2. -DO- THRO THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
3. THE INSPECTOR OF POLICE,
AVANIYAPURAM POLICE STATION, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S D.BALAMURGAPANDI Advocate SR.No. 46433

SR : 14.08.2015 : 2P/6C

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ORDER
IN
CRL OP (MD) No.15460 of 2015
Date :13/08/2015