



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

Tuesday, the Thirty First day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) No.4104 of 2015

M.VIJAYAKUMAR

... PETITIONER/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
THURAIYUR POLICE STATION,
TIRUCHIRAPPALLI DISTRICT,
(REF. CRIME NO.71/2015)

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.D.SHANMUGARAJA SETHUPATHI Advocate
For Respondent : M/S.A.P.BALASUBRAMANIAN
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 353 and 427 IPC in Crime No.71 of 2015 on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. The defacto complainant in this case is one Ilanchezhiyan, Engineer and Commissioner In-Charge of Thuraiyur Municipality. It is the allegation of the defacto complainant that the petitioner herein is constructing a building within the jurisdiction of the Municipality. While going on with the construction, the petitioner has raised pillars over the public tap located in the area and had thus caused damage to the water lines. On 20.02.2015 at 4.30 p.m., when a staff of the Municipality went to the spot and questioned him, he abused him in filthy language and attempted to attack him with bricks. The staff is a physically challenged person and therefore, he retreated and informed the higher official and thereafter, this complaint has been filed.



4. Learned counsel for the petitioner submitted that the petitioner has obtained appropriate license and planning permit from the Municipality for constructing the building and that he has not encroached upon the public water way as alleged in the complaint. He further submitted that the municipality staff, who is only an Office Assistant has no authority to question the petitioner.

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5. It was submitted by the learned counsel for the petitioner that had the petitioner contravened the building rules or the planning permit by constructing any structure on the water lines as alleged by the defacto complainant, they would have initiated action against him under Municipality Laws.

6. There appears to be some force in the submission of the learned counsel for the petitioner. It is always open to the Municipality to issue "Stop Work Notice" and take all other proceedings against the petitioner including demolition of any unauthorized structure or deviation, if it is found that he has constructed the building in violation of the rules and the plan. The Municipal authorities have every right to inspect his building and this petitioner cannot prevent them from performing their duties. But the allegation against the petitioner in this complaint is that he had intimidated the staff of the Municipality, apart from which, it is not alleged that he has caused any injury to the staff. Therefore, custodial interrogation of this petitioner may not be necessary.

7. Under such circumstances, this Court is inclined to grant anticipatory bail to this petitioner. Accordingly, the petitioner 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, Thuraiyur, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10:30a.m. for a period of four weeks and thereafter as and when required for interrogation;

[b] the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, 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].

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sd/-
31/03/2015

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1.THE JUDICIAL MAGISTRATE
THURAIYUR

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TRICHY DISTRICT

3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI

4.THE INSPECTOR OF POLICE
THURAIYUR POLICE STATION,
TIRUCHIRAPPALLI DISTRICT,

+1. CC to M/S.D.SHANMUGARAJA SETHUPATHI Advocate SR.No.16012

COPY TO:- **THE COMMISSIONER,**
THURAIYUR MUNICIPALITY, TRICHY DISTRICT.

RL/7C – 1.4.2015

ORDER
IN
CRL OP(MD) No.4104 of 2015
Date :31/03/2015