



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the First day of October Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.7578 of 2015

WEB COPY

1 BALANAMACHIVAYAM @ B.NAMACHIVAYABARATHI

2 BALAKRISHNAN

..PETITIONERS/ACCUSED 1 & 2

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
CHATHRAKUDI POLICE STATION, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

(CRIME NO.59 OF 2015)

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.ANANTHA PADMANABHAN, Advocate

For Respondent : M/s.S.PRABHA, Government Advocate (Crl.Side)

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

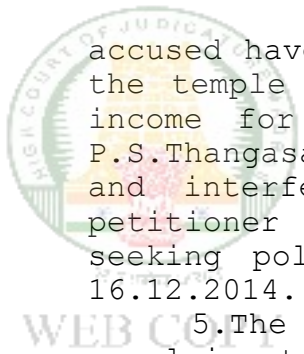
ORDER : The Court Made the following order :-

The petitioners, who are arrayed as A1 and A2 apprehend arrest at the hands of the respondent police for the alleged offence punishable under section 379 NH of IPC, in Crime No.59 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2.According to the de-facto complainant the Inspector of H.R and C.E Department, Paramakudi that on 17.04.2015 at 3.15 p.m, he received information that Karuvelan Trees trees were cut down in the lands belonged to Arulmigu Kumarakadavul @ Subramaniaswami temple, Ramanathapuram to an extent of 2 acres worth about Rs.30 to 50 lakhs at the instigation of A1 and A2.

3.Mr.N.Ananthapadmanabhan, learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The learned counsel further submitted that A1 is the Hereditary Trustee of the Arulmighu Kumarakadavul @ Subramaniaswamy Temple and A2 is his father and the lands situate around the temple was originally Inam grant to the ancestors of the Pillaimar community and the temple is being administered under three branches namely Muthathal, Velathal and Nagathal. It is further submitted that the branch Muthathal was originally represented by P.C.Thangasamy Pillai, while two other branches were represented by N.Shanmuganathan Pillai and K.Shanmugasundaram Pillai and by order, dated 24.07.2008, the said P.C.Thangasamy Pillai was removed from the post of Trusteeship and the first petitioner was appointed as Hereditary Trustee to represent the branch of Muthathal.

4.The learned counsel further submitted that the trustees have decided to construct a new temple in the area and the new temple is under construction and they are also giving Annathanam in the temple at the time of festival season and for the expenses of the new construction, the



accused have every right to utilise the income derived from the lands of the temple and that there is no Hundial in the temple and there is no income for the temple. It is further submitted that the Ex-Trustee P.S.Thangasamy lodged a similar complaint against the present Trustees and interfered with the administration of the temple. So, the 1st petitioner preferred an application in CrI.O.P(MD)No.22540 of 2014 seeking police protection and this court has allowed the petition on 16.12.2014.

5.The learned counsel further submitted that the de-facto complainant filed a similar complaint against the 1st petitioner, which was registered in Crime No.9 of 2015. So, the first petitioner filed CrI.O.P(MD)No.2484 of 2015 seeking for anticipatory bail and this court after satisfying that the complaint was preferred at the instigation of the Ex.Trustee P.S.Thangasamy, has granted anticipatory bail on 06.03.2015.

6.It is further submitted that now, the Public Interest Litigation petition is also filed seeking direction to the Government for removal of the Karuvelan Trees, due to the reason that they consume more ground water, hence, the ground water level has come down. It is further submitted that the report of the Advocate Commissioner filed in this case would reveal that the trees were cut in a small extent and they were available in that area till the inspection of the Advocate Commissioner.

7.The learned counsel has filed the typed set of papers containing the order passed by the HR & CE Department, dated 24.07.2008 and the order passed in CrI.O.P(MD)No.22540 of 2014, dated 16.12.2014 and the judgment passed in O.S.No.36 of 2007.

8.The learned Government Advocate (Criminal side) appearing for the respondent submitted that the Ex-Trustee P.S.Thangasamy has also filed a suit against the accused in O.S.No.36 of 2007 on the file of the District Munsif, Muthukulathur for permanent injunction and the said suit was dismissed.

9.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

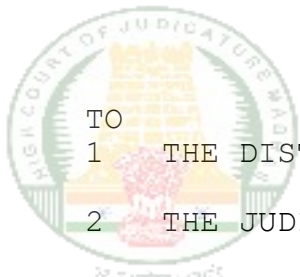
10.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Paramakudi, Ramanathapuram District and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.00 a.m until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. Scrupulously.

11.The petitioners 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/-

01/10/2015

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TO

1 THE DISTRICT MUNSIF, MUTHUKULATHUR.

2 THE JUDICIAL MAGISTRATE, PARAMAKUDI, RAMANATHAPURAM DISTRICT.

3 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM.

4 THE INSPECTOR OF POLICE, CHATHRAKUDI POLICE STATION, RAANATHAPURAM,
RAMANATHAPURAM DISTRICT.

5 THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to M/s. ANANTHA PADMANABHAN & V. RAGHAVACHARI, Advocate in SR.No.59184

ORDER IN

CRL OP(MD) No.7578 of 2015

Date :01/10/2015

PBK/KBM/SAR-II 15/10/2015 ::3P-7C::