



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

Thursday, the Twenty Third day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.15933 of 2017

1 P.JEYAPRAKASH

2 M.SATTHAN

... PETITIONERS/ACCUSED No.1&2

Vs

THE INSPECTOR OF POLICE,
PARTHIBANOOR POLICE STATION,
RAMANATHAPURAM DISTRICT.
IN CR.NO.312 OF 2017.

... RESPONDENT/COMPLAINANT

For Petitioners : M/S.M.GURURAJ Advocate

For Respondent : THE PUBLIC PROSECUTOR

For Intervenor : MR.T.SUGADEV FOR MR.B.VISWANATHAN, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 and 2, apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 447, 427, 294(b), 323 and 506(ii) of I.P.C., in Crime No.312 of 2017, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner and the defacto complainant are brothers. The defacto complainant is owning 25 acres of farm land and the first petitioner is the adjacent land owner. On 07.11.2017, the petitioners and other accused trespassed into the defacto complainant's farm land in order to commit theft of gravel and the same was questioned by the defacto complainant. Thereon, the petitioners attacked the defacto complainant and caused simple injuries. Hence, the defacto complainant lodged a complaint against the petitioners before the respondent police.

3.The learned counsel for the petitioners submitted that the petitioners did not commit any offence as alleged by the prosecution. He would submit that in fact, on 06.11.2017, the defacto complainant entered into the first petitioner's property and



restrained him from further moving and the alleged illegal action was communicated to the respondent police through online, however, the respondent police did not take any action against the defacto complainant. On contrary, the defacto complainant foisted a false case against the petitioners.

4. Today, the petitioners filed an undertaking affidavit before this Court wherein it has been stated as follows:

"3. With great respect it is submitted before this Hon'ble Court that for obvious reasons the present complaint has been filed against me on the file of the respondent police by making me to run nook and corner thereby causing hurdle to my business and family. Despite such fact, without going into the merits of the case in my favour I swear by this affidavit before this Hon'ble Court, that I will not in any manner indulge in any activity that would be detrimental to the interest of the defacto complainant Rajan Sethupathy, a close relative of myself and my family members.

4. I undertake to submit that I will not in any manner trespass into the lands of the defacto complainant as alleged in the complaint in future and cause disturbance to his properties."

5. The learned counsel for the intervenor would submit that on perusal of the affidavit filed by the petitioners, it would suffice if the petitioners does not trespass into the defacto complainant's property. He further submitted that he has no objection to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal side) appearing for the State submitted that the petitioners have trespassed into the defacto complainant's farm land and thereby, the respondent police registered a case against the petitioners, however, there were three sand mining cases and other I.P.C. offence case pending against the petitioners. He requested this Court to impose stringent condition to the petitioners in order to prevent the petitioner from doing illegal activities.

5. Considering the facts and circumstances of the case and also recording the undertaking affidavit filed by the learned counsel for the petitioners, I am inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Paramakudi, Ramanathapuram District, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties 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 petitioners shall report before the Thoothudi South Police Station, Thoothudi District, daily at 10.30 a.m., until further orders;



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(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(iii) the petitioners shall make themselves available for interrogation including custodial interrogation as and when required by the investigation officer;

(iv) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(v) the petitioners shall not abscond either during investigation or trial;

(vi) the petitioners shall not commit any offence while on bail;

(vii) On breach of any of the aforesaid conditions, the learned Magistrate/trial Court is entitled to take appropriate action against the petitioners in accordance with law and the anticipatory bail granted stands cancelled automatically.

sd/-
23/11/2017

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

TO

- 1 THE JUDICIAL MAGISTRATE, PARAMAKUDI, RAMANATHAPURAM DISTRICT
 - 2 THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM DISTRICT
 - 3 THE INSPECTOR OF POLICE,
PARTHIBANOOR POLICE STATION, RAMANATHAPURAM DISTRICT.
 - 4 THE INSPECTOR OF POLICE,
THOOTHUKUDI SOUTH POLICE STATION, THOOTHUKUDI DISTRICT
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.B.VISWANATHAN, Advocate SR.No.34953

ORDER
IN
CRL OP(MD) No.15933 of 2017
Date :23/11/2017