

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

Thursday, the Third day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) No.9877 of 2017

PASUPATHI,

... PETITIONER/ACCUSED No.1

Vs

STATE REPRESENTED THROUGH
THE SUB INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.
IN CRIME NO.426 OF 2017.

... RESPONDENT/COMPLAINANT

GIRI

...INTERVENING PETITIONER/
DEFACTO COMPLAINANT

For Petitioner : M/S.K.MURALEEDHARAN Advocate

For Respondent : MR.C.RAMESH, Additional Public Prosecutor,

For Intervenor : MR.R.ANAND, Advocate

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

ORDER : The Court Made the following order :-

The petitioner/A1, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 342, 447 and 506(i) I.P.C., in Crime No.426 of 2017 on the file of the respondent police and hence, seeks anticipatory bail.

2.The above complaint has been filed on the ground that the defacto complainant is the lessee under the Indian Oil corporation and the petitioner/A1 is the senior manager. When the petitioner tried to evict the defacto complainant from the premises, the defacto complainant filed a suit in O.S.No.120 of 2006 on the file of the District Munsif Court, Melur and obtained an order of interim injunction in I.A.No.259 of 2016. When the order of injunction is in force, the petitioner/A1 has put up stones and prevented the defacto complainant from using the road and also caused criminal intimidation. Based on the above complaint, a case has also been registered against the petitioner and hence, he seeks anticipatory bail.

disputed property and the defacto complainant is the lessee and there is arrears of huge amount towards monthly rent and when the petitioner tried to evict the defacto complainant from the premises, he filed a suit and got an order of interim injunction and in view of the order of injunction, the petitioner/A1 is not interfering with the possession of the defacto complainant, but, a false case has been given against him.

4. On the other hand, the learned counsel appearing for the intervener/defacto complainant submitted that when the order of interim injunction granted by the civil Court is pending, the petitioner/A1 herein has illegally prevented the defacto complainant from using the land by putting up stones and made criminal intimidation against him.

5. In the above circumstances, this Court directed the petitioner/A1 to file an undertaking affidavit stating that he will abide by the orders passed by the civil Court. Today, an undertaking affidavit has been filed, wherein it is stated as follows:

"I hereby give this undertaking that the hotel temple city though he is in unlawful possession with arrears of more than 16 lakhs to the Indian Oil Corporation Ltd., We will follow the due procedure known to law to evict the proprietor of hotel temple city and we will not dispossess him except under due process of law. This undertaking is given without prejudice to our stand in the cases pending before both the civil Court and high Court."

6. Considering the facts and circumstances of the case and also considering the undertaking given by the petitioner/A1, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. 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, Melur, Madurai on condition that the petitioner shall execute 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 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 petitioner shall report before the respondent Police as and when required for interrogation.

(ii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioner shall not abscond either during investigation or trial.

(iv) 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]**.

sd/-
03/08/2017

/ TRUE COPY /

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

TO

- 1 THE DISTRICT MUNSIF
MELUR
 - 2 THE JUDICIAL MAGISTRATE,
MELUR MADURAI DISTRICT
 - 3 THE CHIEF JUDICIAL MAGISTRATE
MADURAI DISTRICT
 - 4 THE SUB INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION, MADURAI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- +1. CC to M/S.K.MURALEEDHARAN Advocate SR.No.28244

ORDER
IN
CRL OP(MD) No.9877 of 2017
Date :03/08/2017

SMA/PM-PN/SAR-2/16.08.2017:3P/7C

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