

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.18101 of 2018

1 KUMAREASAN
2 KASTHURI
3 MAHALINGAM

[PETITIONERS / ACCUSED]

Vs

THE INSPECTOR OF POLICE
POLLACHI TOWN POLICE STATION,
COIMBATORE DISTRICT,
CR.NO.228 OF 2018.

[RESPONDENT]

For Petitioner : M/S.P.KALIMUTHU Advocate

For Respondent : PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners seek anticipatory bail in Crime No.228 of 2018 registered by the respondent for the alleged offence punishable under Section 379(NP) of IPC.

2. The case of the prosecution as per the de-facto complainant one Madhanagopal is that he got a property at Chinnampalayam, wherein, he had stored iron articles for construction of a godown in his property along with fencing bricks and other wooden articles and his employees were also engaged in the construction work. While so, on 15.06.2018, when the defacto complainant was away, the accused have trespassed into his property and threatened the employees, who are engaged in the construction work and thereby, demolished the compound walls by using JCB and also taken away construction materials from the site.

3. The learned counsel for the petitioners would submit that the defacto complainant and the first petitioner are brothers and that there are civil litigations pending between them before the District Munsif Court and also Sub Court, Pollachi in O.S.Nos.463/2008 & 156/2009 respectively. He would submit that due to the enmity, a false complaint has been give against the petitioners. He would submit that though the occurrence is stated to have committed on 15.06.2018, the complaint has been given much belatedly. He would submit that initially, the case was taken up in CSR.No.180 of 2018 and that the petitioners have also approached

this Court and at that time, it was represented by the learned Additional Public Prosecutor that no case was pending, however, subsequently, the present case has been registered. He would submit that the petitioners are prepared to appear before the respondent and co-operate with their investigation.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the defacto complainant and the first petitioner are brothers and that the petitioners have demolished the compound wall put by the defacto complainant and taken away the construction materials and the wooden articles from the land of the defacto complainant.

5. Taking into consideration the facts of the case and the submissions made by the counsels and that the petitioners are prepared to appear before the respondent and co-operate with the investigation, I am inclined to grant anticipatory bail to the petitioners subject to the following conditions:

6. 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-I, Pollachi, on condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 said Magistrate, on further condition that:

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police daily at 10.30.a.m until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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 as if the conditions have been imposed and the petitioners 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
19/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, POLLACHI.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
POLLACHI TOWN POLICE STATION,
COIMBATORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.P.KALIMUTHU Advocate on payment of necessary
charges in SR.NO. 13397

CRL OP.18101/2018

Date :19/07/2018

MLT-26/07/2018