



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

Wednesday, the Twenty Eighth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3029 of 2018

NAINAR

... PETITIONER / ACCUSED NO.2

Vs

THE STATE REP.BY,
THE SUB-INSPECTOR OF POLICE
KURUMPUR POLICE STATION,
TUTICORIN DISTRICT
(CRIME NO.17/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.R.DURAI RAJ Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

For Intervenor : MR.M.MARAN Advocate

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

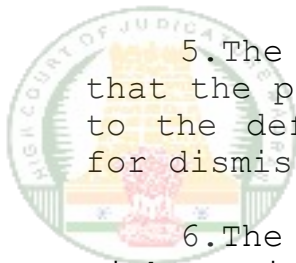
ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused No.2, was arrested and remanded to judicial custody on 23.01.2018 for the offences punishable under Sections 147, 294(b), 379 of IPC and Section 3 of TNPPDL Act in Crime No.17 of 2018, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that, due to civil dispute, the petitioner entered into the field of defacto complainant and damaged the property worth about Rs.1,25,000/-. Thus, on complaint, a case has been registered against the petitioner for the above said offences.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution and his name has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 23.01.2018. Hence, he prays for bail.

4.The learned Government Advocate (Criminal Side) appearing for the State submitted that it is a civil dispute and the investigation of the case is pending.



5.The learned counsel appearing for the intervenor submitted that the petitioner and other accused damaged the property belonging to the defacto complainant worth about Rs.1,25,000/- and he prays for dismissal of this petition.

6.The submissions made by the learned counsel appearing on either side are considered. It is alleged, during the time of occurrence, the petitioner and other accused entered into the field of defacto complainant and damaged the property worth about Rs.1,25,000/-. As of now, part of the investigation is completed. Further, the learned counsel appearing for the petitioner and the intervenor fairly conceded that a civil dispute is pending, with regard to the ownership of the property, in which the, the occurrence has been committed. Further, the petitioner is in judicial custody from 23.01.2018. Considering the nature of offence committed by the petitioner and also considering the period of incarceration, further custodial interrogation of the petitioner may not be necessary for completing the investigation.

7. Considering the above facts and circumstances, this Court is inclined to enlarge the petitioner on bail. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:

(i) the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of Crime No.17 of 2018 on the file of the learned Judicial Magistrate, Srivaikundam, without prejudice his defence before the trial Court.

(ii)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 learned Judicial Magistrate, Srivaikundam.

(ii) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(iii)the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v)on breach of any of the aforesaid conditions, the 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 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/-

28/02/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE, SRIVAIKUNDAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.

3 THE OFFICER IN CHARGE,
DISTRICT PRISON, PERURANI.

4 THE SUB-INSPECTOR OF POLICE
KURUMPUR POLICE STATION, TUTICORIN DISTRICT.

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

+1. CC to M/S.M.S.JEYAKARTHIK Advocate SR.No.3246

ORDER

IN

CRL OP(MD) No.3029 of 2018

Date :28/02/2018

MKV-CM-VR-SAR 2/28.2.2018/3P-7C