



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

Friday, the Seventh day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21727 of 2018

1 S.MADHUSUDHAN

2 S.ARUNKUMAR

... PETITIONERS / ACCUSED NO.4 AND 5

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

DEVARKULAM POLICE STATION,

TIRUNELVELI DISTRICT.

CRIME NO.165/2018

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.R.ANAND Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioners are apprehending arrest at the hands of the respondent police for the offence punishable under Section 436 and 109 of IPC and Section 3 and 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No.165 of 2018, seek anticipatory bail.

2.The case of the prosecution is that the petitioners / accused Nos.4 and 5 along with other accused said to have set fire to the defacto complainant's tea shop which is situated in the Government poromboke and was occupied by the defacto complainant. There was a dispute between the first accused in this case and the defacto complainant, with regard to vacate the tea shop, since it caused disturbance to the public. The first accused asked the defacto complainant to vacate the shop and that since he has not done so, the petitioners along with other accused set fire to the defacto complainants tea shop on 13.11.2018 and caused damage to the tune of Rs.30,000/-. Hence the present complaint came to be filed.

3.The learned counsel for the petitioner submitted that there are five accused in this case. He further submitted that the petitioners were falsely implicated in this case.



4. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with a condition that the petitioners shall deposit a sum of Rs.40,000/- (Rs.20,000/-., by each petitioner) to the credit of Crime No.165 of 2018 before the learned Judicial Magistrate No.II, Madurai and on such deposit, the same shall be disbursed to the defacto complainant without prejudice to the defence of the petitioners in the trial.

5. It is made clear that the deposit of the amount by the petitioners would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

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 No.III, Tirunelveli, on condition that the petitioners 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 learned Magistrate concerned and on further condition that:

[a] if the petitioners fail to surrender before the concerned Magistrate within a period of fifteen days, this order shall stand automatically cancelled without any reference to the Court.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and as and when required for interrogation.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

07/12/2018

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



TO

1. THE JUDICIAL MAGISTRATE NO.II, MADURAI.
 2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 3. THE JUDICIAL MAGISTRATE NO.III, TIRUENLVELI.
 4. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUENLVELI DISTRICT.
 5. THE INSPECTOR OF POLICE
DEVARKULAM POLICE STATION, TIRUNELVELI DISTRICT.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.R.ANAND Advocate SR.No.22919

ORDER
IN
CRL OP(MD) No.21727 of 2018
Date :07/12/2018

MS/PN-AC/SAR-2/13.12.2018/3P.8C