



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

Tuesday, the Twenty Seventh day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.19315 of 2018

1 KANAGARAJ
2 K.BOSE
3 SULTHAN
4 S.BOSE
5 RATHINAM

... PETITIONERS / ACCUSED No.1 to 5

Vs

STATE: INSPECTOR OF POLICE
KALAYAR POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME No. 573/2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.V.KANNAN Advocate

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

For Intervener : MR.S.PUGALENDHI, Advocate

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

ORDER : The Court Made the following order :-

The petitioners / A1 to A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 294(b), 420, 447 and 506(i) of IPC., in Crime No.573 of 2018, seek anticipatory bail.

2. The case of the prosecution is that one Muthukumar S/o. Mutharamu, Thayanur Village, Sivagangai District, have encroached Government Poramboke land measuring about 12 Acres, in S.No.217 of Thayanur, Karaikulam Village, Ilayankudi Taluk. On 03.11.2017, the 2nd respondent had filed an appeal before the Revenue Divisional Officer, Sivagangai District, to make necessary correction in the revenue records. The Revenue Divisional Officer has passed an order in favour of the defacto complainant, directing the Tahsildar, Ilayankudi, to remove the encroachments made by the petitioners. Despite their removal, the petitioners had again on 11.10.2018 encroached the said land and when the second respondent questioned

the same, he was threatened. Hence the case.

3. Mr.V.Kannan, the learned counsel appearing for the petitioners would submit that the petitioners have been falsely implicated in this case. One of the petitioner has preferred a revision petition against the order of Revenue Divisional Officer, dated 28.08.2018, which is pending in E4/184499 /2018. Summons were ordered to the defacto complainant and others to present before the Police Station and to solve the pathway dispute amicably. The first petitioner had submitted a petition to the Superintendent of Police, Sivagangai District, on 19.10.2018, seeking a direction to restrain the respondents not to interfere with the civil dispute. Further, it is contended that the defacto complainant has no locus standi to file a petition before the Revenue Divisional Officer and it has become the habit for the defacto complainant and his group to file one petition or other whenever a new Revenue Divisional Officer takes charge. The property in disputed survey belongs to one Iyengar family and for the past 100 years cultivating has been carried out in the land. The petitioners had got right over the property in the year 2005 and have been cultivating. On the other hand, the defacto complainant and others claiming that the land in dispute is a cart pathway and a pathway proceed to a burial ground and it is a public land. The revenue officials had inspected and found that the land is not of public in nature and there have been civil suit order in favour of the petitioners and there have been Writ Petitions and suits pending between both groups and this case has been filed to exert pressure and to using the criminal case to forcibly take over the land belonging to the petitioners.

4. Mr.K.Suyambulinga Bharathi, the learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that there are dispute between the two groups, which has been pending for a very long time. Based on the complaint of the derfacto complainant, a case has been registered and the investigation is in initial stage.

5. Mr.S.Pugalendhi, the learned counsel appearing for the intervener / defacto complainant has filed a typed set wherein it could be seen that the dispute between the two groups have been prevailing over period of time

6. Considering the above facts and circumstances of the case and also considering the fact the dispute between the two groups have been prevailing over period of time and both the groups are defending and prosecuting their case and the dispute is based on the records, the records are all public document, which are available with the authorities and the concerned, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.I, Sivagangai, on condition that the



petitioners shall execute each 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 learned Magistrate concerned and on further condition that;

[a] if the petitioners failed 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 10.00 a.m., for a period of two weeks and thereafter, 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
27/11/2018

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO I, SIVAGANGAI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT
- 3 THE INSPECTOR OF POLICE
KALAYAR POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to MR.V.KANNAN Advocate SR.No.22138

ORDER
IN

CRL OP (MD) No.19315 of 2018
Date :27/11/2018