



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

Friday, the Eleventh day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.136 of 2019

1 VADIVEL
2 P.V.KRISHNA MUTHUSAMY
3 P.GANESHKUMAR
4 P.PATHMANABAN

... PETITIONERS / ACCUSED No. 1 to 4

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE
CCB POLICE STATION,
MADURAI CITY, MADURAI.
CRIME NO.48/2018

... RESPONDENT / COMPLAINANT

For Petitioners : MR.R.KARTHIKEYAN Advocate

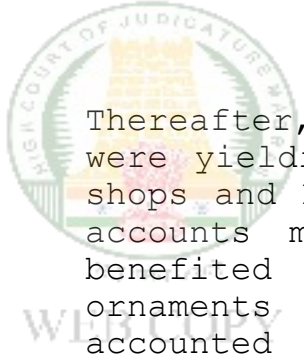
For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(b), 406, 418, 462, 465 and 471 of IPC., in Crime No.48 of 2018, on the file of the respondent Police, seek anticipatory bail.

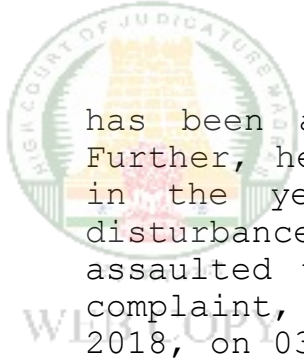
2. The case of the prosecution is that the defacto complainant, as devotee of 'Arulmighu Mariamman Temple', K.Pudur, Madurai, in his complaint has stated that the petitioners had created an endowment and registered on 02.03.2018 with Sub Registrar's Office, as Document No.24 of 2018. The temple, being a public temple, is attempted to be taken over and managed by the petitioners. The temple, which is of 102 years old, had been in maintenance, control and Management of the ancestors of Vadivel / the first petitioner. The first petitioner, being an educated and brother of former Minister, has taken over and had got the Natham Poromboke land assigned in the name of the Temple by the District Revenue Officer.



Thereafter, the Temple was constructed along with four shops, which were yielding an income of Rs.15,00,000/-, as advance for the said shops and Rs.20,000/- per month towards rent. There was no proper accounts maintained and the entire money has been enjoyed and benefited by the petitioners. Further, the 'Hundial' income, ornaments and properties of the Temple have not been properly accounted for. When the same was questioned by the defacto complainant, he was isolated, secluded and forbidden from the Temple. The defacto complainant had filed a Writ Petition in W.P. (MD)No.8639 of 2018, seeking direction of HR&CE Department to take over the temple and for mismanagement of the temple funds. This Court, by an order dated 19.04.2018 had given a direction to consider the same within a period of six weeks.

3. The learned counsel appearing for the petitioners would submit that the first petitioner, who is an educated person, hailing from a respectable family, had been instrumental in aiding and providing and for upliftment of the people in the area. The forefathers and ancestors of the petitioners were instrumental in creating the Temple. The first petitioner's wife's great grandfather, by name Irulan Poosari, about 100 years back, had fixed a 'Soolayutham' where the Temple is now situated, and performs poojas to the Soolayutham till his life time and after his demise, his sons Periyakaruppan and Muthuirulan have managed the Temple, as Trustees-cum-Poosaries. The first petitioner, being an elder son-in-law of law of Periyakaruppan is in the temple administration. The first petitioner has hereditaryship from 1975 to till date and managing continuous administration over the temple, as hereditary trustee and in the year 1981, constructed the temple and 'Kumbabishegam' was performed. Similarly, another 'Kumbabishegam' was performed in the year 2010. The temple has various deities. The Temple owns three shops and the rent derived from the shops is to used to upliftment of the temple. Panguni festival for 10 days in a month, have been celebrated in a grand manner from the year 1975 and the 1st petitioner, in the capacity of hereditary trustee, is conducting the festival. Further, the petitioner has filed a petition under Section 63(B) of the Hindu Religious and Endowments Act, seeking declaration of the petitioner, as hereditary trustee, in O.A.No.15 of 2018, during July, 2018.

4. Continuing further he would submit that the 2nd petitioner is the daughter of 1st petitioner, who is working as Engineer, in Corporation of Madurai. Her husband Late Muthusami was Poosari of the Temple. The 3rd and 4th petitioners are sons of Periyakaruppan and brother-in-law of the 2nd petitioner. For better and codifying management of the temple, the petitioners had created an endowment in which the petitioners are Trustees. Aggrieved over the same, the defacto complainant, who wanted to usurp the funds of the Temple, had given a false complaint. The first petitioner was instrumental in getting the land assigned to the Temple by the Revenue Authorities in the year 1986 and in the said order, dated 01.09.1986 of the Revenue Divisional Officer, it is found that the petitioner



has been addressed as President of the Trustees of the Temple. Further, he had obtained a planning permission from the Corporation in the year 2003. The defacto complainant, who had created disturbance during the 'Vilakku Pooja' with an ulterior motive and assaulted the group of this petitioners. Therefore, based on the complaint, a case was registered against him in Crime No.591 of 2018, on 03.08.2018.

5. The learned Government Advocate (crl.side) appearing for the State reiterating the stand taken in the counter. He would further submit that the petitioners, who are President, Vice President and Trustees of 'Arulmighu Mariamman Temple' Endowment Trust. The defacto complainant had filed a petition before the learned Judicial Magistrate No.I, Madurai, and the same was forwarded under Section 156(3) Cr.P.C., and the case came to be registered in Crime No.48 of 2018, on 24.12.2018, against the petitioners and the investigation is almost completed.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, subject to certain conditions;

8. 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, Madurai, 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 from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, 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.

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11/01/2019

/ TRUE COPY /

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

TO

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

+1. CC to MR.R.KARTHIKEYAN Advocate SR.No.811

ORDER
IN
CRL OP(MD) No.136 of 2019
Date :11/01/2019

MSI/JC/SAR-II/21.01.2019-4P/6C