



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

Thursday, the Twenty Fifth day of April Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.5870 of 2019

1 T.HANDIRAN
2 JEYABARATHI
3 T.H.SHANMUGAPRIYA
4 OTCHAMMAL
5 NALLAPERUMAL

... 1 TO 5 PETITIONERS / ACCUSED 1,3 TO 6

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CUMBUM SOUTH POLICE STATION,
THENI DISTRICT.
CRIME NO.168 OF 2019

... RESPONDENT / COMPLAINANT

For Petitioners: Mr.M.A.M.RAJA, 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 who are apprehending arrest at the hands of the respondent police for the alleged offence under Sections 147,148,294 (b),323,324 and 506(ii) of IPC, in Cr.No.168 of 2019, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is working as a watchman in the disputed land and the property belongs to one Dhanushkodi and without having any valid title the petitioner along with others tried to encroach the property for which he has filed a complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution and they are innocent persons. He would also submit that he entered into lease agreement with the defacto complainant by paying 80 lakhs as Othi deed and thereafter the owner of the property did not pay amount and the defacto complainant and there was a wordy quarrel, thereby he filed a false complaint against them. The petitioners have also filed a suit in O.S.No.26 of 2019.



However on instructions he would submit that the first petitioner is ready to file an undertaking that they will not enter into the property without obtaining any order from the competent civil Court. The relevant para 2 reads as follows:

" 3. I undertake that myself and other petitioners who are family members will not interfere the dispute property unless obtaining order from the competent civil court of law".

5.The learned Government Advocate(Crl.side) appearing for the respondent police would submit since they have filed an undertaking affidavit, this Court may pass appropriate order.

6.Considering the facts and circumstances and considering the fact that the petitioners have come forward saying that they will not interfere the disputed property unless obtaining order from the competent civil court of law, this Court is inclined to grant anticipatory bail to the petitioners. 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, Uthamapalayam, 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners 1,3 and 5 shall report before the respondent police daily at 10.30a.m until further orders and the petitioners 2 and 4 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]**; and;



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

25/04/2019

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

TO

1. THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE
CUMBUM SOUTH POLICE STATION, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.A.M.RAJA Advocate SR.No.7299

ORDER

IN

CRL OP(MD) No.5870 of 2019

Date :25/04/2019

MS/PN/SAR-4/27.04.2019/3P.6C