



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

Date : 13/06/2019

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PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). Nos.6699 & 6720 of 2019

Viknesh @ Dinesh, ... Petitioner/Accused No.3
(In CRL OP(MD). No.6699 of 2019)

1.ThangaMurugan @ Murugan

2.Rajeswari, ... Petitioners/Accused Nos.1 & 2
(In CRL OP(MD). No.6720 of 2019)

Vs

The State Rep.by
The Inspector of Police,
Kottar Police Station,
Kottar, Kanyakumari District.
Cr.No.162 of 2019.

... Respondent/Complainant
(in both petitions)

Thenkarai Maharajan ... Petitioner/Intervener
(in CRL MP(MD).NO.4942 of 2019
In CRL OP(MD). No.6720 of 2019)

For Petitioners: Mr.K.Sivabalan,
Advocate.
(in both petitions)

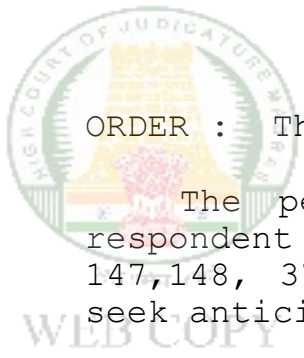
For Respondent : Mrs.M.Anantha Devi,
Govt.Advocate (Crl.Side).
(in both petitions)

For Intervenor : Mr.C.Susikumar
(in CRL MP(MD).NO.4942 of 2019
In CRL OP(MD). No.6720 of 2019)

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

COMMON PRAYER :-

For anticipatory bail in cr.no.162 of 2019 on the file of the
respondent police.



ORDER : The Court Made the following common order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 379, 427, 448 & 506 (ii) IPC , in Crime No.162 of 2019, seek anticipatory bail.

2. Heard both sides.

3. The learned counsel appearing for the petitioners has submitted that the petitioners are landlords and the defacto complainant is the tenant. He further submitted that since the petitioners asked the defacto complainant/tenant to evict from the premises, he gave a false complaint against the petitioners. He further submitted that even as per the FIR, the defacto complainant is not an eye witness and therefore he prayed to grant anticipatory bail to the petitioners.

4. Per contra, the learned counsel for the Intervenor for the defacto complainant has submitted that since the petitioners attempted to evict the defacto complainant from the premises forcibly, he filed a suit in O.S.No.290 of 2017 on the file of the learned Additional District Munsif, Nagercoil and said suit was decreed on 28.02.2019 enraged over the same, the petitioners engaged some rowdy elements and ransack the entire fancy store of the defacto complainant and caused the damage to the tune of Rs.5,00,000/- and also stolen the amount of Rs.2,63,000/- and hence, he strongly opposed this petition.

5. The learned counsel for the petitioners submitted that by way of reply that the petitioners have filed appeal again the judgment passed in O.S.No.290 of 2017 by the learned Sub Judge, Nagercoil and the same is still pending.

6. The learned Government Advocate (Criminal Side) has adopted the arguments made by the learned counsel for the Intervenor and she also opposed to grant anticipatory bail to the petitioner.

7. Taking into consideration of the submission made by the learned counsel for the petitioner that the petitioners have filed an appeal against the judgment and decree passed in O.S.No.290 of 2017 and also the fact that in the FIR, the defacto complainant has not stated that he is an eye witness to the occurrence, this Court is inclined to grant anticipatory bail to the petitioners by imposing conditions.

8. 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.II, Nagercoil, Kanyakumari District. 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

(v) 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].

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

sd/-
13/06/2019

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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,
Nagercoil, Kanyakumari District.
- 2.Do-Through The Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.
- 3.The Inspector of Police,
Kottar Police Station,
Kottar, Kanyakumari District.



4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.SIVABALAN, Advocate (SR-9617[I] dated 13/06/2019)

+1 CC to Mr.K.SIVABALAN, Advocate (SR-9618[I]

+1cc to Mr.C.SUSIKUMAR, Advocate in Sr.No.9781

ORDER

IN

CRL OP(MD) . Nos.6699 & 6720 of 2019

Date :13/06/2019

dss

AE/JC/SAR-IV (18.06.2019) 6P 8C