



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.8909 of 2019

P.Mookan

... Petitioner/Accused No.5

Vs

The Inspector of Police,
Jambunathapuram Police Station,
Trichy District.
Crime No.45 of 2019.

... Respondent/Complainant

For Petitioner : M/s.R.Kathiresaperumal, Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

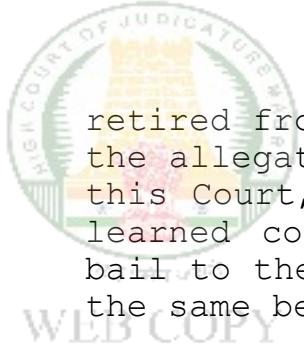
PRAYER :-

For Anticipatory Bail in Crime No.45 of 2019 on the file of the respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 506(i), 459, 468, 420 and 354(B) IPC, in Crime No.45 of 2019, seeks anticipatory bail.

2.The learned counsel appearing for the petitioner has submitted that the petitioner is an innocent and he has been falsely implicated in the above case. He further submitted that the Government has assigned agricultural land ad-measuring 0.72.0 ares in Survey No.618/3 to the defacto complainant in the year 2009. He further submitted that on 01.04.2011, the defacto complainant has mortgaged the said property with the accused No.1 and received a sum of Rs.2 lakhs and also executed an un-registered mortgage deed and also handed over the possession of the said property to the accused No.1. He further submitted that the allegation against the petitioner is that he got signature from the defacto complainant and handed over the assignment order to the accused Nos.1 and 2. He further submitted that the petitioner herein never worked as Village Administrative Officer in the concerned Village and further he



retired from his service even in the year 2007 itself and therefore, the allegation made against the petitioner is totally false. Already this Court, taking into consideration of the submission made by the learned counsel for the accused Nos.1 to 4, granted anticipatory bail to them in CrI.OP.(MD)No.7817 of 2019, dated 11.06.2019. Hence, the same benefit may be extended to the petitioner also.

3.The learned Additional Public Prosecutor has submitted that at the time of granting patta assigning the land in favour of the defacto complainant, the petitioner herein/ A5 obtained signatures in blank papers and handed over the assigning patta to the accused Nos.1 and 2 and only after eight years, the defacto complainant came to know that the accused Nos.1 and 2 have encroached her property. He further submitted that on 03.03.2019, when the defacto complainant asked the accused Nos.1 and 2 to hand over the possession of the land they criminally intimidated her by using obscene words and also assaulted her and hence, the complaint was registered by the Thuraiyur Police and the same was forwarded to the respondent police under Section 156(3) Cr.P.C and based on the same, the respondent police has registered a case. He further submitted that since investigation is not yet completed, he opposed this petition

4. Taking into consideration of the fact that even as per FIR, the accused Nos.1 and 2 have encroached the suit property eight years ago, but, the defacto complainant has not taken any steps for recovery of possession of the said property through process of law and also the fact that the complaint was filed before the concerned Magistrate after eight years and also the fact that already, accused Nos.1 to 4 got anticipatory bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

5.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thuraiyur, on condition that the petitioner shall execute 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 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 petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii)the petitioner 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 petitioner shall not tamper with evidence or witness either during investigation or trial.



(iv) the petitioner 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/-

19/07/2019

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

TO

1. THE JUDICIAL MAGISTRATE, THURAIYUR.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
JAMBUNATHAPURAM POLICE STATION, TRICHY DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.8909 of 2019

Date :19/07/2019

MS/VR/SAR-1/01.08.2019/3P.5C