



WEB COPY

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

Date : 09/07/2019

PRESENT

**The Hon'ble Mr.Justice P.RAJAMANICKAM**

**CRL OP(MD) . No.9080 of 2019**

Kottalam @ Gopal,, ... Petitioner/Sole Accused

Vs

The State rep.by  
The Inspector of Police,  
Alwarthirunagiri Police Station,  
Thoothukudi District.  
(Crime No.116 of 2019). ... Respondent/Complainant

For Petitioner : M/s.S.Selvakumar,  
Advocate.

For Respondent : Mrs.M.Anantha Devi,  
Government Advocate (Crl.Side)

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

PRAYER :-

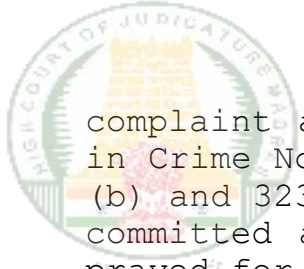
For Anticipatory Bail in Crime No.116 of 2019 on the file of the respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 323 and 506(ii) of IPC in Crime No.116 of 2019, seeks anticipatory bail.

2.Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that even though the defacto complainant got permit for taking soil from some other place, he has taken soil in Thenkari Kammai Kulam and the same was questioned by the petitioner and the defacto complainant and his associates have assaulted the petitioner and caused serious injuries and hence the petitioner herein was admitted in the Government hospital, Srivaikundam, and also gave a



complaint and based on the said complaint, FIR has been registered in Crime No.123 of 2019 for the offence under Sections 147, 148, 294 (b) and 323 of IPC. He further submitted that the petitioner has not committed any offence as alleged by the prosecution. Therefore, he prayed for grant of anticipatory bail to the petitioner.

4.Per contra, the learned Government Advocate(Crl. Side) has submitted that already 11 cases are pending against the petitioner. She further submitted that the defacto complainant got permit for taking soil from the said place. But, the petitioner went there and assaulted the defacto complainant and hence she opposed this petition. However, she fairly conceded that based on the complaint given by the petitioner counter case has also been registered in Crime No.123 of 2019 for the offences under Sections 147, 148, 294 (b) and 323 of IPC. She further submitted that the injured sustained only simple injury and he was treated as out-patient.

5.Taking into consideration the fact that a counter case has been registered and also the fact that the injured sustained only simple injury and he was treated as out patient and also the fact that in other previous cases the petitioner is on bail, this Court is inclined to grant bail to the petitioner by imposing certain conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Srivaikundam, and 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a]If the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b]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.

[c]the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d]the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 absconds, a fresh FIR can be registered under Section 229A IPC.

WEB COPY

sd/-  
09/07/2019

/ TRUE COPY /

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

TO

1.THE JUDICIAL MAGISTRATE, SRIVAIKUNDAM.

2.DO THRO'THE CHIEF JUDICAIL MAGISTRATE,  
THOOTHUKUDI DISTRICT.

3.THE INSPECTOR OF POLICE,  
ALWARTHIRUNAGIRI POLICE STATION,  
THOOTHUKUDI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1 CC to MR.S.SELVA KUMAR, Advocate ( SR-11347[I] dated 09/07/2019 )

ORDER  
IN  
CRL OP(MD) No.9080 of 2019  
Date :09/07/2019

vsg  
AE/JC/SAR-II (15.07.2019) 3P 6C