



WEB COPY

CRL OP(MD) . No.9941 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/08/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.9941 of 2019

1. Anvar Mohaideen
2. Rethina Mohamed
3. Baseer Ahamed
4. Aafith Ali
5. Ayubkhan (Selvam)
6. Abdul Hameed (Selvavappa)
7. Ahamed Mirsha
8. Segu Noordheen

... Petitioners/Accused 1 to 8

Vs

State Rep.by
The Inspector of Police,
Keelakarai Police Station,
Ramanathapuram District.
Crime No.96 of 2019

... Respondent/Complainant

For Petitioner : M/s.J.Barathan,
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.96 of 2019 on the file of the Respondent police.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 323, 427 and 506(i) of IPC in Crime No.96 of 2019, seek anticipatory bail.

2. Heard both sides.



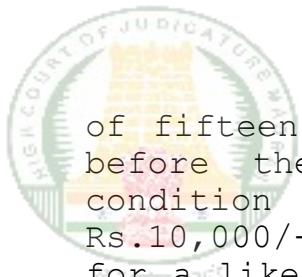
3.The learned counsel appearing for the petitioners has submitted that the petitioners are the members of Jamad and the defacto complainant has tried to encroach the property which belongs to the Jamad and hence, the petitioners have already filed a civil suit and the same is still pending. He further submitted that even after filing of the said suit, the defacto complainant has constructed steps encroaching the street and hence, the petitioners have filed a complaint before the Municipality Commissioner and the Municipality Commissioner has issued order to remove the said encroachment but, the defacto complainant has lodged a false complaint stating that the petitioners herein demolished the said construction. He further submitted that in order to show their bona fide, the petitioners are willing to deposit a sum of Rs.10,000/- without prejudice to their contention and therefore, he prayed to grant anticipatory bail to the petitioners.

4.The learned counsel appearing for the intervener/defacto complainant has submitted that the petitioners are claiming that they are the members of the Jamad and the defacto complainant has made encroachment with the property belongs to Jamad and in such a case they should have approached the tribunal instead of that they have filed a suit before the civil Court. He further submitted that the civil Court has not granted any interim relief in favour of the petitioners. He further submitted that since the petitioners could not get order from the civil court, they approached the Municipality Commissioner to demolish the construction which was made by the defacto complainant on his own land and accordingly, the construction value about Rs.50,000/- has been demolished by the petitioners and also the Municipality Commissioner and therefore, he strongly opposed this petition.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police has adopted the arguments made by the learned counsel for the intervener/defacto complainant and she also opposed to grant anticipatory bail to the petitioner.

6.Taking into consideration of the fact that already the petitioners have filed a suit before the civil Court and the same is pending and also the fact that even as per the FIR, only the Municipality Commissioner has issued order to demolish the aforesaid construction and also the submission made by the learned counsel for the petitioners that the petitioners are willing to deposit a sum of Rs.10,000/- without prejudice to their contention and also the fact that no certificate has been received from the PWD department with regard to the alleged damage caused by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners by imposing certain conditions.

7.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 Judicial Magistrate Court No.1, Ramanathapuram, 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]the petitioners jointly shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.96 of 2019 before the Judicial Magistrate Court No.1, Ramanathapuram, without prejudice his defence before the trial Court;

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

(iii)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.

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

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

(vi) 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].

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

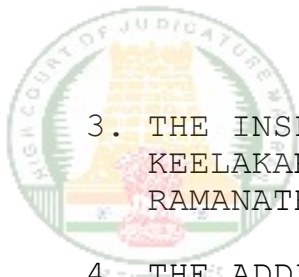
sd/-
19/08/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, RAMANATHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.



3. THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1. CC to M/S.T.R.JEYAPALAM Advocate SR.No.13710

ORDER

IN

CRL OP(MD) No.9941 of 2019

Date :19/08/2019

MS/VR/SAR-3/28.08.2019/4P.6C