

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.14930 of 2020

M.Madhu @ Madhammal,
W/o.Murugesan

.. Petitioner

/versus/

State Represented by,
The Inspector of Police,
Bargur Police Station,
Krishnagiri District.
Crime No.585 of 2020

.. Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Crime No. 585 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

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ORDER

The petitioner/A5, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 147, 148, 294(b), 341, 342, 323, 324, 307, 302 IPC, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's father and her cousin brother were owning adjoining lands and there was a issue with regard to encroachment of boundaries. On 02.06.2020, at about 5 p.m, the defacto complainant's father questioned about the encroachment to the fourth accused in the presence of the other accused namely fourth accused sons and wife. In the course of conversation, A1 to A3 took knife, wooden log and attacked the defacto complainant's father, when the defacto complainant's brother intervened, he also attacked by the group. When the defacto complainant and her mother attempted to intervene, they were restrained by the petitioner and the fourth accused. On the intervention of the nearby people, the accused persons ran away from the scene. The defacto complainant's father died on the spot and her brother was taken to the hospital for treatment. Thereafter, the defacto complainant lodged a complainant at about 8 p.m before the respondent.

3. The learned counsel for the petitioner submitted that the defacto complainant and their group are the aggressors who attacked the accused group. Earlier there was a dispute with regard to the boundary of their land. A village panchayat was held, who advised the deceased not to interfere and cause disturbance to the accused property. Contrary to the same the deceased

along with his son entered into the lands of the petitioner's family due to which fight arose and they exchanged blows. The petitioner's husband was severely injured. The case in counter came to be registered in Crime No.588 of 2020 for the offence under Section 294, 322 and 506(ii) IPC. The other accused in this case A1 to A3 are the sons of the petitioner and A4 is the husband of the petitioner. A1 to A4 arrested and let out on bail. Further, it is the case that the petitioner was present near the scene of occurrence and she along with A4 restrained the defacto complainant in an attempt to save her father. Admittedly, in this case the petitioner was not armed with any weapon, she had not participated in fight and no overt act attributed to the petitioner. The petitioner is a lady. Further, in this case investigation is almost completed and the custodial investigation of the petitioner is not necessary. Hence prayed for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the date of occurrence is 02.06.2020 at about 5 p.m. The complaint was lodged on the same day at 8 p.m. The defacto complainant is the daughter of the deceased. There was some dispute with regard to the boundaries of land between the defacto complainant's father and her cousin brother/A4. Earlier village panchayat was held and in the panchayat the deceased and the petitioner's

family was advised not to be provocative and not to indulge in assault. On the date of occurrence, the petitioner's family removed the boundary stone and when the same was questioned by the deceased the petitioner's sons assaulted the deceased with knife and wooden log on his head and all over the body. The overt act as regards this petitioner is that she along with A4 restrained the defacto complainant attempt to save her father. In this case, the investigation is almost completed and forensic report is awaited. Except the petitioner all the other accused namely A1 to A4 arrested and granted bail.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

6. Considering the rival submissions it is seen that the dispute between the petitioner's family and deceased family with regard to boundaries of their lands, both petitioners family and defacto complainant family are relatives and adjacent land owners. Earlier to the occurrence, the panchayat was held and both the parties were asked to show restrain. Despite the same, on the date of occurrence the petitioner's son removed the boundary stone, when the same was questioned by the deceased, fight arose between them and the deceased was attacked by the petitioner's son. The petitioner was present in

the seen of the occurrence and did not gone near the deceased and there is no overt act attributed against the petitioner. The petitioner is a lady, she restrained the defacto complainant when defacto complainant attempted to intervene and save her father during attack. Further considering that the other accused were arrested and granted bail, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions.

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) within a period of 15 days from the date of receipt of a copy of this order 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent Police as and when required and it would be appropriate that in presence of a Women Police Officer enquiry is conducted.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

7.With the above directions, this Criminal Original Petition is ordered.

01.10.2020

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To:

- 1.The Inspector of Police,
Bargur Police Station,
Krishnagiri District.
- 2.The Judicial Magistrate No.I,
Krishnagiri.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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