

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2020

CORAM:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.16958 of 2020

1. Ramasamy @ Kondaiyan ... Petitioners/accused No.1 to 5
2. A.Perumal @ Chinnakannu
3. P.Ravi
4. P.Anbalagan
5. Kombai @ Perumal

Vs.

State ... Respondent/Complainant
Rep.by the Inspector of Police,
Mallur Police Station,
Salem District.
(Crime No.649 of 2020)

PRAYER: This Criminal Original Petition has been filed under Section 438 of Cr.P.C., seeking to grant anticipatory bail to the petitioners in the event of arrest in connection with Crime No. 649 of 2020 pending investigation on the file of respondent police.

For Petitioners : Mr.R.Jayaprakash

For Respondent : Mr.Charles Premkumar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 294(b), 323, 324 and 506(ii) of Indian Penal Code 1860 in Crime No. 649 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners had trespassed into the defacto complainant's land and disturbed the works, which are going on, despite the interim order granted in favour of the defacto complainant.

3.The learned counsel for the petitioners would submit that the petitioners have been falsely implicated in this case and they have not committed any offence as alleged by the prosecution. Hence, he seeks for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that the case in counter is arising out of the property dispute. The civil case is pending, whereas an order of injunction has been granted against the petitioners herein. Despite that the petitioners are trying to trespass into the disputed property and also attacked the defacto complainant and his family members. Further, he would submit that the injured persons have already been discharged from the hospital.

5. Taking note of the fact that the injured persons have already been discharged from the hospital and the right of the defacto complainant has been protected by an order of the injunction granted in favour of the defacto complainant by the Civil Court. Therefore, custodial interrogation of the petitioners is not required. Hence, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:-

[a] Accordingly, the petitioners are directed to be released on bail in the event of arrest or their appearance, within a period of fifteen days, before the learned Judicial Magistrate No.VI, Salem, on condition that each of the petitioners 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 satisfaction of the learned Magistrate concerned, as the case may be.

[b] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners shall report before the respondent police as and when required for interrogation.

[d] the petitioners shall not tamper the evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] On failure to comply the condition or 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

22/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE COURT NO.VI,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MALLUR POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. R.JAYAPRAKASH Advocate on payment of necessary
charges SR.NO.7101

CRL OP.16958/2020

Date :22/10/2020

TA-02/11/2020

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