



ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners, the learned Government Advocate(Crl. Side) appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

2. The petitioners apprehending arrest at the hands of the respondent police for the offences under sections 294(b) and 506(i) of I.P.C. and Sections 3(1)(r), 3(1)(I)(A) and 3(1)(zc) of the Scheduled Cast and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 in Crime No.319 of 2019 on the file of the second respondent police, seek anticipatory bail.

3. The learned counsel appearing for the third respondent pointed out that the defacto complainant and others are living in a hamlet in Samyanallur region of Madurai. They belong to Kattunaickan community. They eke out their livelihood by fortune telling. There are 500 families, out of them some 100 families have embraced Christianity.

4. The specific allegation of the defacto complainant is that the first petitioner is virtually conducting katta panchayat and indulging in several antisocial activities.

5. The learned counsel appearing for the third respondent drew my attention to the Peace committee meeting resolution passed way back 19.08.2005. The first petitioner is said to have undertaken to quit the honorary president post. The defacto complainant's counsel took me to the allegations set out in the FIR.

6. The petitioners' counsel on the other hand pointed out that it is beyond dispute that the petitioners 2 to 9 belong to ST Community. Therefore, on the very face of it, the FIR could not have been registered against the petitioners 2 to 9.

7. It is further seen that a criminal case on the very same line was registered against the petitioners in Crime No.222 of 2019. Of course, as rightly pointed out by the learned counsel appearing for the third respondent that it was given by one Algumeenakshi on 10.09.2019. He further points out that the case on hand has been given by one Arumugam and not Algumeenakshi and that therefore, the case on hand cannot be categorized as the second complaint on the same set of facts. He would also point out that since the local police are acting hand in glove with the accused, the Deputy Superintendent of Police was pulled up by the learned Special Judge and that is why the investigation officer is against the complainant. He also contended that the quash petition filed by the petitioners had suffered dismissal.

8. I must make it clear that the dismissal of a quash petition will not come in the way of this Court from granting anticipatory bail to the accused. This is too settled a proposition and does not



9. Of course I am conscious that the case on hand has been registered under SC/ST (POA) Act, 1989. Even though this Court has the power under Section 482 of Cr.P.C., to grant relief of anticipatory bail, the power has to be exercised only if certain threshold tests are fulfilled.

10. It is beyond dispute that out of ten accused eight accused belong to ST Community. Secondly on a careful perusal of the FIR registered in Crime No.222 of 2019 and Crime No.319 of 2019, one can very easily come to the conclusion that both rest on the same cause of action. In fact technically the complainant may be different, but they are founded on the same set of facts. It is seen that out of 500 families, 100 families had embraced Christianity. Therefore, turf war is going on in the locality. Hence communal colour has been given by the defacto complainant.

11. As pointed by the petitioners' counsel that the earlier FIR was investigated and it was closed as mistake of fact. That is under challenge at the instance of the aggrieved party. In the meanwhile a fresh complaint has been given on the same set of facts. I therefore come to the *prima facie* conclusion that registration of Crime No.319 of 2019 on the very face of it is malafide and therefore, the petitioners are entitled to anticipatory bail.

12. In the view of the above, I am inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned III Additional Sessions Court (PCR), Madurai, and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two common sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

13. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
18/02/2020

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



TO

1 THE III ADDITIONAL SESSIONS JUDGE (PCR),
MADURAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
SAMAYANALLUR, MADURAI DISTRICT.

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

+1. CC to M/S.P.T.RAMESH RAJA Advocate SR.No.3485

ORDER

IN

CRL OP(MD) No.2615 of 2020

Date :18/02/2020

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JM/VR/SAR 3/21.02.2020/4P/6C