



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 27/08/2020

PRESENT

WEB COPY

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.9001 of 2020

1. GANGA @ GANGADHARAN
2. ESWARAN
3. PATHMANAPAN
4. CHINNASAMY
5. S.SETHURAMAN @ SEKAR
6. SETHU

... PETITIONERS/ACCUSED NO.1 TO 6

VS

STATE REP.BY
THE INSPECTOR OF POLICE,
PALAYANUR POLICE STATION,
SIVAGANGAI DISTRICT
(IN CRIME NO. 99 OF 2020).

... RESPONDENT/COMPLAINANT

For Petitioner : M/s. R.Udhayakumar,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.F.X.Eugene, Advocate

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

PRAYER :-

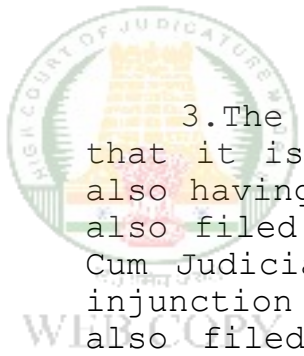
For Anticipatory Bail in Crime No. 99 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners who are arrayed as accused No.1 to 6, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147, 341, 447, 420 and 120(b) of IPC and Section 3 of Tamil Nadu Public Property (Prevent of Damage and Loss) Act, 1992 in Crime No.99 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant, who is the Block Development Officer, has given the complaint alleging that the petitioner has prevented the general public from using the public pathway and also caused damage to the public road. Hence, the complainant.

<https://hccourtshc.in/home>



3.The learned counsel appearing for the petitioner would submit that it is a private land of the petitioner and the petitioner is also having patta for the land. He would further submit that he has also filed a suit in O.S.No.25 of 2020, before the District Munsif Cum Judicial Magistrate Court, Thiruppuvanam seeking for permanent injunction and the same is also pending. Earlier, the villagers also filed Public Interest Litigation before this Court in W.P. (MD)No.9399 of 2020, and this Court vide order dated 17.08.2020, held that it is either open to the official respondents to persuade the private respondents to utilize their lands for the purpose of approach road or in the alternative, to acquire the lands by following due process of law. When, the Hon'ble Division Bench order is very clear that it is a land belonging to the petitioner, a false complaint has been given against the petitioner.

4.The learned Government Advocate (crl. Side) appearing for the State would submit that the investigation is still pending.

5.On perusal of the records, it is seen that there was a long standing dispute between the parties and the Hon'ble Division Bench of this Court also held that the official respondents to persuade the petitioner to utilize their lands for using as a pathway or in the alternative, to acquire the lands by following the due process of law.

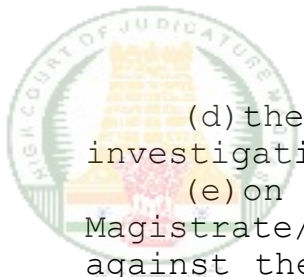
6.Considering the facts and circumstances of the case and also considering the order passed by the Hon'ble Division Bench of this Court in W.P.(MD)No.9399 of 2020, the de-facto complainant cannot claim that the petitioner has wrongly obstructed the road. Therefore, I am inclined to grant anticipatory bail to the petitioners with 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 four weeks from the date of receipt of a copy of this order, before the learned District Munsif cum Judicial Magistrate, Thiruppuvanam, Sivagangai District, on condition that the petitioners shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two common 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:

(a)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;

(b)the petitioners shall report before the respondent police as and when required for interrogation;

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;



(d) the petitioners 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 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]***; and;

(f) if the petitioners/accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
27/08/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUPPUVANAM, SIVAGANGAI DISTRICT.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3 THE INSPECTOR OF POLICE
PALAYANUR POLICE STATION,
SIVAGANGAI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.9001 of 2020
Date : 27/08/2020

SJI