



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.11513 of 2020

1.R.Deepa
2.M.Monsih

... Petitioners/Accused No Not Known

Vs

State Rep. by
The Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
in Crime No. 245 of 2020.

... Respondent/Complainant

For Petitioners: M/s.H.Elango,
Advocate.

For Respondent : Mr.Kr.Bharathi Kannan,
Government Advocate (Crl.Side)

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

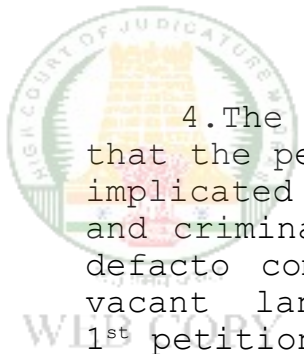
PRAYER :- For Anticipatory Bail in Crime No.245 of 2020 on the
file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners, who are arrayed as accused apprehending arrest
at the hands of the respondent police for the offences punishable
under sections 294(b), 506(2) of IPC and Section 4 of Tamil Nadu
Women Harassment Act, in Crime No.245 of 2020 on the file of the
respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are the
mother and son. The petitioners and the defacto complainant are
residing in temple property for a long period. Duo to encroach the
vacant land of temple property, the defacto complainant cut down the
trees in front of the petitioner's house. Hence, the complaint.

3.Heard the learned counsel appearing for the petitioners and
the learned Government Advocate (Crl. Side) appearing for the



4.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that Already civil and criminal dispute is pending before the court of law. Since the defacto complainant cut down the trees and tried to encroach the vacant land in front of the petitioners' house. Hence, the 1st petitioner lodged a complaint against the defacto complainant and on the same, no enquiry was made by the respondent police. The defacto complainant filed a suit in O.S.No.685 of 2007 before the Principle District Munsif Court, Nagercoil sought for declaration and the same was dismissed. Aggrieved the same, the defacto complainant filed a appeal in A.S.No.110 of 2014 before the Principal District Court, Nagercoil and the same was allowed. Challenging the same, the 1st petitioner filed second appeal in S.A.No.166 of 2018 before this Court and this Court appointed an Advocate Commissioner to survey the temple property and the same is pending. At this juncture, the defacto complainant violated the order of this Court again cut down the trees in the vacant land in front of the house of the 1st petitioner. While being so, on the false complaint of the defacto complainant, the respondent police registered the FIR without conducting any enquiry. Hence, he seeks anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side), on instructions, submitted that the petitioners are mother and son. Due to the civil dispute between the 1st petitioner and the defacto complainant, present case has been registered. However, he conceded that there is no previous case against the petitioners.

6.Considering the facts and circumstances of the case and also considering the fact that there is no previous case against the petitioners, this Court is 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 their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned The Judicial Magistrate, Eraniel, 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:

(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
<https://hccservicescourts.gov.in/hccservices> 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 accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

16/10/2020

/ TRUE COPY /

/ /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 JUDICIAL MAGISTRATE
ERANIEL.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

3 THE INSPECTOR OF POLICE,
VELLICHANTHAI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.H.ELANGO, Advocate (SR-7122[I] dated 19/10/2020)

ORDER

IN

CRL OP(MD) No.11513 of 2020

Date :16/10/2020

DSS

<https://hcmjcms.sbi.in/Services/10.2020/3P/6C>