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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.11576 of 2020

Viajayan ... Petitioner/Accused No.1
Vs

State: Represented by its
The Inspector of Police,
Kalakkadu Police Station,
Tirunelveli District.
Crime No. 613 of 2020.

... Respondent/Complainant

For Petitioner : M/s.T.A.Ebenezer,
Advocate.

For Respondent : Mrs.M.Anandha Devi,
Government Advocate (Crl.Side)

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

PRAYER :-

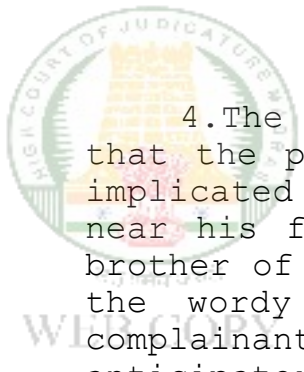
For Anticipatory Bail in Crime No.613 of 2020 on the file of
the Respondent Police

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at
the hands of the respondent police for the offences punishable under
section 379 of IPC, in Crime No.613 of 2020 on the file of the
respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the
defacto complainant are the owners of adjacent fields. When the
absence of the defacto complainant, the petitioner along with other
accused stolen away the sand bund before one month. Hence, the
complaint.

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



4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. The petitioner only removed the sand bund near his field for agricultural purpose with the knowledge of the brother of the defacto complainant. He further submitted that duo to the wordy quarrel regarding the boundary dispute, the defacto complainant after knowing the orders of this Court not granting anticipatory bail in mines theft cases, lodged a false complaint against the petitioner. Hence, he seeks anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side), on instructions, submitted that the petitioner and the defacto complainant are the owners of adjacent fields. When the absence of the defacto complainant, the petitioner along with other accused stolen away the sand bund before one month.

6.Considering the facts and circumstances of the case and also considering the fact that a false case has been foisted against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Nanguneri, on condition that the petitioner 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 Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner and the sureties shall affix his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity;

(b)the petitioner shall report before the respondent police daily at 10.30 a.m without fail for a period of two weeks and thereafter, as and when required for interrogation.

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

(d)the petitioner 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

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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 JUDICIAL MAGISTRATE, NANGUNERI.
- 2.DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
KALAKKADU POLICE STATION,
TIRUNELVELI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.11576 of 2020
Date :16/10/2020

dss
AE/AKM/SAR-III (28.10.2020) 3P 5C