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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/12/2020

PRESENT

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

CRL OP(MD).No.15183 of 2020

1.Edwin Jose

2.Viljeniya Little Flower

... Petitioners/Accused
Nos.1 & 2

Vs.

The State Rep. by
The Inspector of Police,
City Crime Branch Police Station,
Madurai District.
Crime No.57 of 2019.

... Respondent/Complainant

For Petitioners: Mr.S.Elumalai
Advocate.

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

For Intervenor : Mr.B.Chandra Mohan

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

PRAYER :-

For Anticipatory Bail in Cr.No.57 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 & A2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 420, 294(b) and 506(i) IPC, in Crime No.57 of 2019, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant gave a part of his property to the petitioners for sale and left some as untouched. Further, it is alleged that the petitioners had put up a gate and curtailed the defacto complainant's entry for which a civil suit in O.S.No.206 of 2019 was filed by the present petitioners and the same is pending for adjudication. As the defacto complainant interfered in the peaceful possession of the



petitioners, the petitioners had given a complaint before Anna Nagar Police Station. Even then as the petitioners disturbed the defacto complainant he had opted to give the above complaint.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case.

4.The learned Government Advocate (Crl.Side), appearing for the respondent police strongly opposed to grant anticipatory bail to the petitioners.

5.Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Crl.Side) appearing for the respondent and the learned counsel appearing for the intervenor.

6.It is seen that the petitioners are arrayed as A1 and A2. Admittedly they purchased the property belongs to one Banumathi through the defacto complainant, who is the power of attorney of the said Banumathi. Now, the allegation is that some of the portions encroached by the petitioners. In this regard, already a suit is also pending in O.S.No.206 of 2019 on the file of the District Munsif Court, Madurai.

7.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Madurai District, 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:

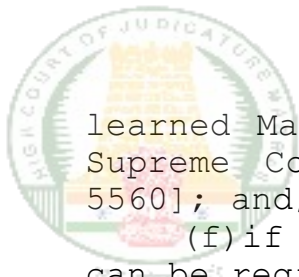
(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

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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 No.I, MADURAI.
 2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 3. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH POLICE STATION,
MADURAI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- + 1 CC TO Mr.S.ELUMALAI, ADVOCATE IN SR No. 8535

ORDER
IN
CRL OP(MD) No.15183 of 2020
Date :23/12/2020

VSD
TE/KV/SAR-III : 07/01/2021 : 3P/6C