



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.273 of 2021

1.A.W.Sardhar Kasim

2.A.R.Showgath

... Petitioners/Accused Rank not known

-Vs-

State By,

The Inspector of Police,

Thiruvannamalai East Police Station,

Thiruvannamalai District.

(Crime No.3304 of 2020)

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioners on bail in the event of their arrest in Crime No.3304 of 2020 on the file of the respondent police.

For Petitioners : Mr.S.Silambu Selvan

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

(Heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294 (b), 323 and 506(i) of IPC, in Crime No.3304 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The petitioners are the accused. The defacto complainant is the tenant of the property belonging to the Mosque. The case of the prosecution is that while the defacto complainant was in occupation of the Mosque property, the petitioners came and threatened the defacto complainant with dire consequences to vacate and hand over the Mosque premises on the ground that the tenancy was over and abused him in filthy language. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and despite tenancy was over, the defacto complainant without vacating the premises, was continuing in the premises and when the petitioners questioned the same, the defacto



complainant lodged a complaint with false allegations before the police and the concerned police advised the defacto complainant to approach the Civil Court since the matter is civil in nature. However, the defacto complainant lodged a complaint before the Judicial Magistrate under Section 156 (3) Cr.P.C and thereafter, registered the present case. Hence, the learned counsel for the petitioners seek anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that in pursuant to the directions of the learned Judicial Magistrate, Thiruvannamalai, based on the private complaint filed by the defacto complainant, the respondent police has registered the present case and the investigation is pending.

5.Considering the facts and circumstances of this case, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6.Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.2, Thiruvannamalai, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 every day at 10.30 a.m., for a period of two week and thereafter as and when required.

[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].



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
18/01/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.2, THIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUVANNAMALAI EAST POLICE STATION,
THIRUVANNAMALAI DISTRICT.

CC to M/S.S.SILAMBU SELVAN Advocate on payment of necessary charges

CRL OP.273/2021

Date :18/01/2021

cs 01/02/2021