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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.12991 of 2021

1. G.Azhagappan, (M/52)
S/o.Ganesapillai,

2. M.Sivanantham (M/35)
S/o.Muniyandi

... Petitioners

Versus

State rep by
The Sub-Inspector of Police,
Thirukallar Police Station,
Thiruvarur District.
(Crime No.166 of 2021)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the event of their arrest in Crime No.166 of 2021 on the file of the respondent.

For Petitioners : M/s.P.Muthamizh selvakumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Section 379 IPC, in Crime .No.166 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with other accused persons had stolen the goat belongs to the defacto complainant. Hence, the complaint was registered.

3.The learned counsel appearing for the petitioners submitted that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. However, on instructions, the learned counsel further submitted that



the petitioners, on their own volition, are ready and willing to contribute a sum of Rs.1,00,000/- to Sri Kapaleeshwarar Temple and Arulmigu Marundeeswarar Temple, for the purpose of maintaining the Goshala's (பசுமடம்).

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4.The learned Government Advocate (Crl.Side) submitted that there are nine previous cases pending against the petitioners. However, he vehemently opposed for grant of anticipatory bail to the petitioners.

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

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court No.1, Mannargudi, on condition that the petitioners shall execute a separate 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)if the petitioners failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the first petitioner shall make a non-refundable deposit of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of the Executive Officer, Arulmigu Marundeeswarar Temple, Thiruvannamiyur, Chennai, for the purpose of maintaining the Goshala's (பசுமடம்), without prejudice to his defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;

© the second petitioner shall make a non-refundable deposit of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of the Executive Officer, Sri Kapaleeswarar Temple, Mylapore, Chennai, for the purpose of maintaining the Goshala's (பசுமடம்), without prejudice to his defence before the trial Court and submit the proof of payment of the said amount before the aforesaid learned Judicial Magistrate, who after perusing the challan/ receipt/acknowledgement, shall accept the sureties furnished by the petitioner;



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

(e) the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;

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

(g) the petitioners shall not abscond either during investigation or trial;

(h) 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;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
28/07/2021

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.I, MANNARGUDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION].

3 THE SUB-INSPECTOR OF POLICE,
THIRUKALLAR POLICE STATION,
THIRUVARUR DISTRICT.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE EXECUTIVE OFFICER
ARULMIGU MARUNDEESWARAR TEMPLE,
THIRUVANMIYUR, CHENNAI.

6 THE EXECUTIVE OFFICER,
SRI KAPALEESWARAR TEMPLE,
MYLAPORE, CHENNAI

+1CC to P.MUTHAMIZH SELVAKUMAR Advocate on payment of necessary
charges S.R. NO. 7880

CRL OP.12991/2021

Date :28/07/2021

JPA 09/08/2021