



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.20183 of 2021

SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE SUB INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
GENGAVALI,
SALEM DISTRICT.
CRIME NO.232/2021

[RESPONDENT]

For Petitioner : M/S.M.SARATHKUMAR Advocate

For Respondent : MR. A.GOPINATH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under sections 294(b), 380, 436, 457 and 506(2) of IPC, in Crime No.232 of 2021, 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 neighbours. In fact the defacto complainant purchased the agricultural land which belongs to the petitioner. Thereby there arose enmity, due to which the petitioner and his father set fire on the defacto complainant's house. Due to which 19 sovereign gold ornaments were stolen and the house hold articles worth about Rs.2,50,000/- also destroyed. Hence the complaint was registered by the Law Enforcing Agency.



3.The learned counsel appearing for the petitioner submits that the petitioner did not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and he further submits that the petitioner also sustained injuries. The learned counsel, on instructions, further submits that the petitioner, without prejudice to his rights, the petitioner is ready to deposit the amount of Rs.2,50,000/- to the credit of the crime number and also conceded the same may be disbursed to the defacto complainant. However, the learned counsel submits that before disbursing the amount to the defacto complainant, an affidavit of undertaking may be obtained from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.2,50,000/- shall be returned to him.

4.The learned Government Advocate (Crl.Side) submits that the petitioner along with his father set fire on the defacto complainant's house, due to which there was a loss of about Rs.2,50,000/-. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5.Considering the submissions made by both the Counsel and also considering the fact that the petitioner has agreed to deposit the amount, this Court is inclined to grant anticipatory bail to the petitioner .

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before Learned Judicial Magistrate, No.I, Attur, 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner shall deposit a sum of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) to the credit of Cr.No.232 of 2021 before the Learned Judicial Magistrate, No.I, Attur within a period of two weeks from the date of receipt of a copy of this order . On such deposit being made, the Learned Judicial Magistrate, No.I, Attur, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioner succeeding the case, the amount of Rs.2,50,000/- deposited by the petitioner to the credit of Cr.No.232 of 2021 will be returned to the petitioner and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;



(b) the petitioner and 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;

(c) the petitioner shall report before the respondent police as and when required for interrogation.

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

(e) the petitioner shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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;

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

-sd/-

28/10/2021

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, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



4 THE SUB INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
GENGAVALI, SALEM DISTRICT.

WEB COPY

+1 CC to M/S.M.SARATHKUMAR
charges SR.NO.12174

Advocate on payment of necessary

CRL OP.20183/2021

Date :28/10/2021

RW 12/11/2021