



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.23187 of 2021 and

Crl.MP.No.13040 of 2021

Prakash Raj

.. Petitioner

Vs.

State Rep.by its
The Inspector of Police
T - 3 Koratur Police Station,
Chennai.
Crime No.1098 of 2021

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No. 1098 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Selvakumar

For intervener : Mr.C.D.Johnson

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl.Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 294 (b), 323, 447, 427, 506 (ii) of IPC in Crime No.1098 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that defacto complainant lodged a complaint before the respondent police stated that due to property dispute between the petitioner and defacto complainant, the petitioner along with others trespassed in to the defacto complainant land and assaulted her and damaged the CCTV camera, Hard disk, DVR, and Safnam garden board and abused the defcto complainant with filthy language and dire consequences. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that petitioner is an advocate he only aided his client to Police Station in which the police voluntarily implicated the petitioner in this



case. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

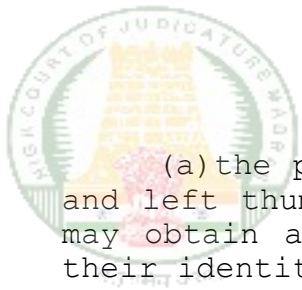
4. The learned counsel for the intervener raising objection stating that there was a land dispute between the defacto complainant vagaiara and the accused. Originally, the subject property belonged to the defacto complainant vagaira and they have obtained the original deeds in their favour and paid advance amount towards total consideration of Rs.4,20,00,000/- and subsequently also made arrangement for levelling the lands by fixing CCTV Cameras in the land, however, without their knowledge one Mageshwari Vagaira cancelled the power deed on 30/06/2021, and subsequently on 13.10.2021, the petitioner along with other accused who belongs to Maheshwari Vagaira have trespassed into the land of the defacto complainant and damaged the CCTV Camera etc and threatened the security therein and encroached the said land. He further submits that the defacto complainant herein filed a Civil Suit in OS.No.437 of 2021 and for inspecting the said subject property, an Advocate Commissioner was appointed and after inspecting the same and filed his report. He further submits that the petitioner is an habitual offender. Hence, he vehemently opposed to grant anticipatory bail.

5. The learned Government Advocate (Crl side) on instructions submits that investigation is still pending. Hence, he vehemently opposed the grant of bail.

6. On perusal of the available records before the Court, it appears that the defacto complainant herein filed a Civil Suit in OS.No.437 of 2021 and for inspecting the said subject property, an Advocate Commissioner was appointed and after inspecting the same and filed his report.

7. Considering the facts and circumstances that there was civil dispute with regard to land between defacto complainant and original owner and also considering the fact that the petitioner being an Advocate, he has appeared for his client/ seller of the property and there was a case in counter, 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 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, Ambattur, Chennai, 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 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;

(b) the petitioner shall report before the respondent police on every Saturday at 10.30 a.m., for a period of four weeks, until further orders;

(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 petitioner in accordance with law as if the conditions has been imposed and the petitioner is 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Consequently, connected criminal miscellaneous petition is closed.

-sd/-

06/12/2021

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,
AMBATTUR, CHENNAI

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)



3 THE INSPECTOR OF POLICE,
T3- KORATTUR POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.SELVAKUMAR Advocate on payment of necessary charges
Sr.14068

CRL OP.23187/2021

and Crl.MP.No.13040 of 2021

Date :06/12/2021

RVR 17/12/2021