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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1181 of 2021

1. Joseph Rajesh
2. Rayappan

... Petitioners/Accused No.3 & 7

Vs

State rep.by
The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
(Crime No.35/2021).

... Respondent/Complainant

For Petitioners: Mr.S.Balasubramanian,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.35/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as Accused Nos.3 and 7, apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 294(b), 352, 355 and 506(ii) of IPC and Section 4 of TNPWH Act, in Crime No.35 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant and the petitioners belong to the same locality. On the date of occurrence, the petitioners and other accused persons said to have way laid the defacto complainants and abused them by using filthy language and assaulted them with hands and also threatened them with dire consequences. Hence, the present complaint.



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

4. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that it is a case in counter, earlier the petitioners have been attacked by the defacto complainants and hence, they have given a complaint against them and the same has been registered in Crime No.34 of 2021, for the offence under Sections 147, 294(b), 323, 355, 324 and 506(ii) of IPC and Section 4 of TNPWH Act, 2002. As a counter blast, the present complaint has been filed. Hence, he seek anticipatory bail.

5. The learned Government Advocate (Crl. Side), appearing for the respondent police submitted that it is a case in counter. He further submitted that the injured person sustained only simple injury and he has been treated as out patient.

6. Considering the facts and circumstances of the case and also considering the fact that it is a case in counter and the injured person sustained only simple injury and he has been treated as out patient, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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, Radhapuram, 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, RADHAPURAM.
2. -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
KODANKULAM POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.1181 of 2021
Date : 29/01/2021

vsg
AE/SMA/SAR-I (04/02/2021) 3P / 5C