



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 16/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1723 of 2021

1. Manikandan
2. Leyronne Morais ... Petitioners/Accused Nos.1 & 2

Vs

State Rep.by
The Inspector of Police,
Thiruverumbur Police Station,
Trichy District.
Crime No.97/2021. ... Respondent/Complainant

For Petitioners: Mr.K.Sivabalan,
Advocate.
For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)
For Intervener : Mr.B.Jameel Arasu,
Advocate

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

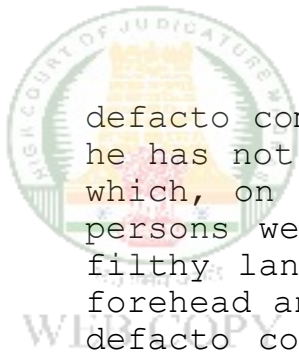
PRAYER :-

For an Anticipatory Bail in Crime No.97 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 and A2, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii), 379 and 307 of IPC, in Crime No.97 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant, who owned 3 acres of agricultural land in the center of Morais City. Except the land of the defacto complainant, the second petitioner has drawn a layout in his land. The second petitioner compelled the defacto complainant to sell the above said property. Since the

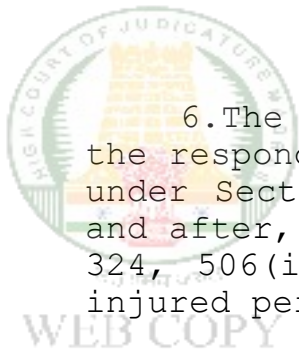


defacto complainant has interested to continue with the agriculture, he has not sold his property to the second petitioner herein. Due to which, on the date of occurrence, the petitioners and other unknown persons were said to have abused the defacto complainant by using filthy language and also assaulted on his right eyebrow and right forehead and jaw and taken away 4½ sovereigns of gold chain from the defacto complainant and thereafter, the other accused persons were said to have assaulted the defacto complainant with iron pipe. Thereafter, the defacto complainant was admitted in the hospital. Hence, the present complaint.

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

4. The learned counsel appearing for the petitioners submitted that the first petitioner is an employee of the second petitioner and the second petitioner is the owner of the Morais City and he is a developer, who had developed various properties by putting up lay outs, after getting approval from the DTCP and he is also a flat promoter and he is running the business for the past 15 years and he is a reputed land promoter and builder in Trichy District. Insofar as the subject property is concerned, the second petitioner had developed lay out on his property, after getting approval from the DTCP authorities dated 31.01.2020. He further submitted that the second petitioner has put up lay out around the defacto complainant's agricultural land and all the plots have been sold. He further submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that at the instigation of the defacto complainant, the petitioners have been falsely implicated in this case. He further submitted that the injured person has already been discharged from the hospital. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervener/defacto complainant submitted that the second petitioner is a land promoter and he compelled the defacto complainant to sell his land. The defacto complainant refused to sell his land. Due to which, the petitioners and other accused persons restrained the defacto complainant and assaulted him all over the body, by using iron pipe and taken away 4½ sovereigns of gold chain. Thereafter, he was admitted in the Government Hospital. Though he was discharged from the hospital, the chain is yet to be recovered. In this case, the custodial interrogation of the petitioners is very much required. If the petitioners were granted anticipatory bail, there is a threat to the life of the defacto complainant. Hence, he opposed this petition. In the event of granting anticipatory bail, the petitioners have to give an undertaking that they will not be cause any threat to the life of the defacto complainant.



6.The learned Government Advocate (Crl. Side), appearing for the respondent police submitted that initially a case was registered under Sections 147, 148, 294(b), 323, 324, 506(ii) and 379 of IPC, and after, the case was altered into Sections 147, 148, 294(b), 323, 324, 506(ii), 379 and 307 of IPC. He further submitted that the injured person has already been discharged from the hospital.

7.On perusal of the materials available on records, it is seen that the second petitioners has put up layout, after getting approval from DTCP authorities and the same has also been produced before this Court. It is also seen that the petitioner's land situated around the land of the defacto complainant. On the date of occurrence, there was a function for distribution of plots to the purchasers of the property. The victim has already been discharged from the hospital.

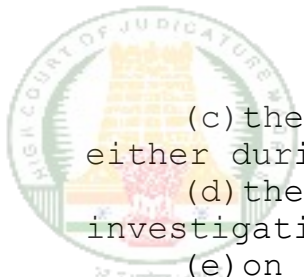
8.Considering the facts and circumstances of the case and also considering the fact that the injured person has already been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioners on condition that the petitioners shall file an undertaking affidavit before the respondent police that the petitioners will not cause any threat perception to the life of the defacto complainant both physically and psychologically.

9.Accordingly, the second petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the account of Mr.D.Karthikeyan (Canara bank Account No.1012101043080, Tallakulam Branch, IFSC Code No.CNRB0001012)without prejudice to his rights and contentions before the trial Court. The second petitioner shall produce the proof of remittance /submission of amount to the Magistrate while executing sureties.

10.On producing proof for the remittance, 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 Judicial Magistrate Court VI, Trichy District, 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 daily at 10.30 a.m for a period of two weeks and thereafter, as and



(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.

sd/-

16/02/2021

/ TRUE COPY /

/ /2021

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 NO.VI, TRICHY.
- 2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3.THE INSPECTOR OF POLICE,
THIRUVERUMBUR POLICE STATION,
TRICHY DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.1723 of 2021

Date :16/02/2021

vsg

AE/VR/SAR-II (23/02/2021) 4P / 5C