



WEB COPY

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

Date : 17/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.1729 of 2021

1. Ananda Rajan @ Anandharaj
2. Rajakumar
3. Josaphat @ Josabath
4. Shaji
5. Ajikumar @ Aji
6. Karnan
7. Archunan
8. Joel @ Joyal

... Petitioners/Accused Nos.1 to 8

Vs

The State rep.by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
Crime No.43/2021.

... Respondent/Complainant

For Petitioners : Mr.C.Muthusaravanan,
Advocate.

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)

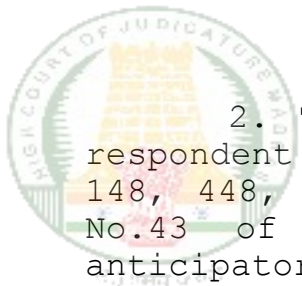
For Intervenor : Mr.Niranjan S.Kumar, Advocate

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

PRAYER :- For an Anticipatory Bail in Crime No.43 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

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



2. The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 148, 448, 427, 294(b), 323, 324 and 506(ii) of I.P.C., in Crime No.43 of 2021 on the file of the respondent police, seek anticipatory bail.

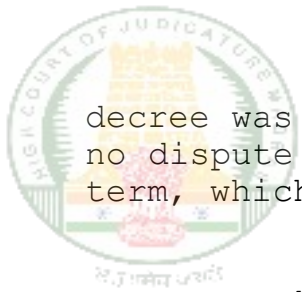
WEB COPY

3. The petitioners are local villagers, wherein RPA college is situated. There is pathway cutting across college leading to the village. 50 families are there in the village. There is dispute between them regarding the usage of the pathway. O.S.No.183 of 2018 was filed in that regard. Thereafter, a compromise was arrived between the college management and some of the villagers. This being the case, the college authorities attempted to fence the pathway and also tried to put a gate during the month January, 2021, which was objected by the petitioners. Hence there was commotion between them and the petitioners damaged the properties of the defacto complainant.

4. The learned counsel for the petitioners submitted that the petitioners lodged a complaint before the respondent in Crime No.44 of 2021 for the offences under Sections 147, 148, 294(b), 323, 324 and 506(ii) of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, against the defacto complainant. It is case in counter case. He further submitted that the occurrence for Crime No.43 of 2021 is said to have taken place on 26.01.2021 at 11.59 am while the occurrence for Crime No.44 of 2021 is said to have taken place on 26.01.2021 at 11.45 am. Hence, the occurrence in Crime No.44 of 2021 is in prior.

5. The learned counsel for the defacto complainant submitted that this is the third occurrence. The defacto complainant and supporters run an educational institution. There is a pathway dispute between them. Hence a suit in O.S.No.183 of 2018 was filed on the file of the learned Principal District Munsif, Kuzhithurai was filed in this regard. A compromise was entered between the parties on 17.09.2020, on certain terms. Contrary to the terms, the first and second petitioners intervened in the property and assaulted the defacto complainant. Hence, the defacto complainant lodged a complaint but the same is pending at the CSR stage. On 16.01.2021, the first and second petitioners attacked the defacto complainant. Even though online complaint was given, no FIR was registered till date. Since the first petitioner is business man while the second petitioner is president of the village, the complaint on them was not registered. Again on 26.01.2021, the present occurrence had taken place. On that day, the petitioners attacked the defacto complainant on various parts of the body and he is ICU ward. Now the petitioners are violating the terms of the compromise decree arrived between them. Hence, he prays for dismissal of the anticipatory bail petition.

<https://hcservices.ecourt.gov.in/hcservices> from the materials on record that a compromise



decree was arrived between the parties with certain terms. There is no dispute between them with regard to the terms, except the seventh term, which reads as follows:-

"7.The defendants have also agreed that they will not raise any objection regarding the exclusive use of the road in the suit property by the plaintiffs, their men and successors at any point of time and will not object to their fitting or arch in the entrance. The plaintiffs and defendants have unanimously agreed that they will not unilaterally permit the 3rd parties who dispute the right of either of the plaintiffs or of the defendants over the above said road to use the above said road."

7.The petitioners apprehension is that they are obstructed from accessing the road by the defacto complainant. Hence, the defacto complainant is only permitted to build arch in the said property but he cannot deny the access block the way to the petitioners in the said property.

8.Considering the submissions of the learned counsel for the petitioners as well as the defacto complainant, I am inclined to grant anticipatory bail to the petitioners with certain conditions.

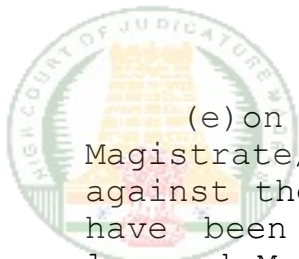
9.Accordingly, petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Judicial Magistrate No.I, Kuzhithurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with one surety 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 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
17/02/2021

/ 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.I, KUZHITHURAI.
2. -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.1729 of 2021
Date : 17/02/2021

IAS
AE/JC/SAR-I (25/02/2021) 4P / 5C