



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 16/03/2021

PRESENT

**The Hon'ble Mr. Justice M.NIRMAL KUMAR**

CRL OP(MD). No.4018 of 2021

1.Balasubramanian

2.Devi Kala

... Petitioners/Accused No.1&2

**Vs**

The State Rep. by  
The Inspector of Police,  
Kottar Police Station,  
Kottar, Nagercoil,  
Kanyakumari District.  
Crime No. 115/2021.

... Respondent/Complainant

For Petitioners : Mr.Palani Velayutham S,  
Advocate.

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

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

**PRAYER :-**

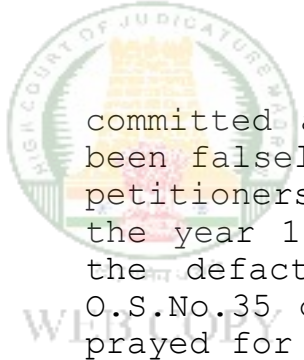
For Anticipatory bail in Crime No. 115 of 2021 on the file of the respondent police.

**ORDER :** The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 447, 427, 294(b), 506(2), 379 IPC in Crime No.115 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are the house owner and the defacto complainant is a tenant. When the petitioners asked to vacate the premises, there was some dispute arose between them. Due to which, the petitioners and their henchmen entered into the premises of the defacto complainant and taken away 20 sovereigns of jewels and Rs.25,000/- and also damaged the household articles. Hence, the complaint.

3.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 and they have been falsely implicated in this case. He further submitted that the petitioners are the house owners and the property had purchased in the year 1993. When the petitioners asked to vacate the premises, the defacto complainant refused the same and filed a suit in O.S.No.35 of 2021 on 10.02.2021 against the petitioners. Hence, he prayed for grant of anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl. Side), appearing for the respondent police submitted that the defacto complainant was in the possession of the property from 1994 and he has got right over the property on adverse possession.

5.It is seen that the petitioners are the house owners of the property and the defacto complainant is a tenant and he had been paid the rent regularly. The petitioners wanted the premises and hence, the asked the defacto complainant to vacate the premises. Hence, there was a dispute.

6.Considering the above facts and circumstances of the case and considering the fact that it is only a house owner and tenant dispute, 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 No.II, Nagercoil, Kanyakumari 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:

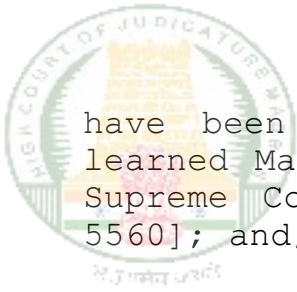
(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall appear 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.

sd/-  
16/03/2021

/ 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.II, NAGERCOIL.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,  
KOTTAR POLICE STATION,  
KOTTAR, NAGERCOIL,  
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+ 1 CC TO Mr.S.PALANI VELAYUTHAM, ADVOCATE IN SR No. 2262

ORDER  
IN  
CRL OP(MD) No.4018 of 2021  
Date :16/03/2021

GNS  
TE/SMA/SAR-II : 23/03/2021 : 3P/6C