



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/08/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.5210 of 2021

1.John William Ebenesh Bensam
2.Rekha John
3.Sharon
4.Jebin Rangaya
5.Steephen
6.P.Shajack
7.Ramachandran

... Petitioners Nos.1 to 7/
Accused Person Rank Not Known

Vs

The State rep.by
The Inspector of Police,
Vadaseri Police Station
Kanyakumari District at Nagercoil
(Crime No.53/2021).

... Respondent/Complainant

For Petitioners : Mr.G.ANTO PRINCE,
Advocate.

For Respondent : Mr.P.KOTTAI CHAMY,
Government Advocate (Crl.Side)

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

PRAYER :-

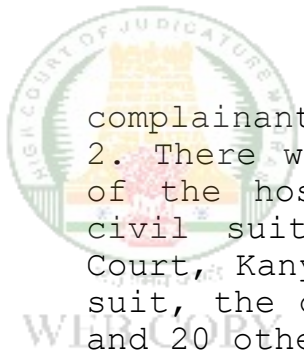
For Anticipatory Bail in Crime No.53/2021 on the file of the
Respondent Police

ORDER : The Court made the following order :-

The petitioners/accused, apprehending arrest at the hands of
the respondent police for the alleged offence punishable under
Sections 457 and 380 I.P.C, in Crime No.53 of 2021 on the file of
the respondent police, seek anticipatory bail.

2.The case of the prosecution is that at the instigation of
petitioners 1 and 2, some unknown persons had committed theft of 6
CCTV Cameras, DVR's TV and also they have taken a sum of
Rs.10,000/- from the defacto complainant's hospital. Hence, the
complaint.

3.The learned counsel for the petitioners would submit that the
alleged occurrence had taken place at the hospital which is owned by
Dr.A.John Bensam, the father of the petitioners 1 and 2. The defacto



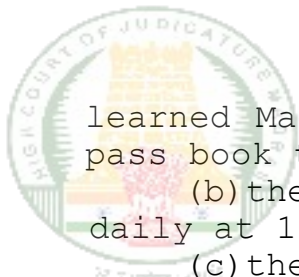
complainant is none other than the sister of the petitioners 1 and 2. There was a dispute between themselves with regard to ownership of the hospital, for which, the defacto complainant has filed a civil suit in O.S.No.219 of 2020 before the Principal District Court, Kanyakumari District for permanent injunction. Pending civil suit, the defacto complainant with the help of Secretary of the Bar and 20 other rowdy elements had forcibly taken the possession of the property and he has also filed a typed set of papers enclosing the photographs of several group of people in the hospital. The learned counsel further submitted that these petitioners have not dispossessed the property, for which, they have lodged a separate complaint before the respondent police on 04.02.2021 whereas the respondent police obtained a complaint as against these petitioners, registered the complaint of the defacto complainant and did not take any action on the complaint of these petitioners. The entire incidents had taken place at the blessings of the Deputy Superintendent of Police. He further submitted that the petitioners are innocents, they have not committed any offence as alleged by the prosecution, but they have been falsely implicated in this case.

4.Though this Court has already issued a specific direction to the learned Government Advocate (Crl.Side) appearing for the respondent police to furnish the material as to the damages caused to the hospital to substantiate the case of the complaint, no material has been produced today. However, he submitted that the said hospital was established by one Dr.Bensan and he has given the hospital to his daughter/defacto complainant by a registered settlement deed vide document No.1231/202, which was duly registered in Vadaseri Sub-Registrar Officer, therefore, the defacto complainant is the owner of the hospital as per the settlement deed. He further submitted that these petitioners along with rowdy elements entered into the hospital and damaged six CCTV cameras in the out-patient block, TV and also caused damage to the tune of Rs.2,00,000/-.

5.Taking into consideration of the facts and circumstances of the case, the fact that it is a property dispute and the civil suit between the parties is pending before the Court concerned, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Nagercoil 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 learned Magistrate concerned and on further conditions that:

(a)the petitioners and the sureties shall affix their left thumb impression in the surety bond and the



learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent police daily at 10.30 a.m until further orders.

(c) the petitioners shall not tamper with the 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/-

24/08/2021

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/ /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,
VADASERI POLICE STATION
KANYAKUMARI DISTRICT AT NAGERCOIL

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.G.ANTO PRINCE, Advocate SR.No.5634

ORDER IN

CRL OP(MD) No.5210 of 2021

Date : 24/08/2021

SA/VR/SAR.1/06.09.2021/3P/6C

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