



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/06/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.5831 of 2021

1. P.Jeyakumar
2. R.Harish
3. Subramani @ Subramaniyan
4. S.Balamurugan

... Petitioners/Accused
No.1,2,3 & 4

Vs

State rep by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
Cr.No. 101 of 2021.

... Respondent/Complainant

Illavarasan

... Intervener/Defacto Complainant
in Crl MP(MD)3547 of 2021
in CRL OP(MD)No.5831 of 2021

For Petitioner : Mr.C.Susi Kumar, Advocate.
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)
For Intervenor : Mr.Poornachandran, Advocate.

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

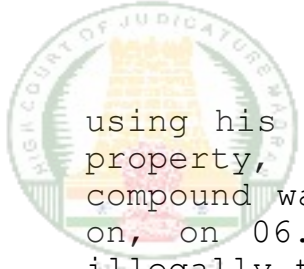
PRAYER :-

For Anticipatory Bail in Crime No.101 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A4, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 147, 447, 427, 294(b), 323 and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002, in Crime No.101 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant owns 40 cents of land in S.No.103/1 situated at Kochadai and doing agriculture. The persons residing in Jayabharath Classic City were



using his land as pathway continuously. Therefore, to protect his property, he engaged a mason and helpers for construction of a compound wall. When the construction of a compound wall was going on, on 06.04.2021 at about 09.00 a.m., the accused in this case illegally trespassed into his land and damaged the compound wall and when that was prevented, the accused Jeyakumar attacked his wife on her left ear and caused injury. Then they gave criminal intimidation and left the scene of occurrence.

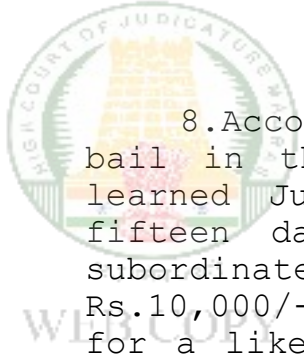
3. The learned Counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case.

4. The learned Counsel for the defacto complainant/intervenor strongly opposed this petition on the ground that there is no pathway in the land and the petitioners had prevented from constructing a compound wall and caused injury to the defacto complainant's wife. He further submitted that the petitioners damaged the compound wall and its value is Rs.50,000/-.

5. In response, the learned Counsel for the petitioners submitted that in fact there was a resolution passed by the trustees of the Lala Chataram Charitable Trust, in which the defacto complianant is one of the trustees, wherein it is alleged and admitted that there is a North-South pathway in S.No.97 and 103/1 for the use of agriculturists. This resolution was passed on 16.11.2013. It is submitted by the learned Counsel for the petitioners that when the defacto complainant himself admitted the existence of 40feet North-South pathway, he cannot object to using the pathway available in S.No.103/1.

6. The learned Government Advocate (Crl.Side) appearing for the State opposed this petition on the ground that the investigation is not yet completed. He further submitted that the injured had already been discharged from the hospital.

7. It is seen from the submissions that the issue involved in this case is with regard to a common pathway said to be available in S.No.103/1. Their claim and counter claim with regard to the existence and availability of pathway in S.No.103/1 has to be finally decided by a competent civil Court. However, from the records available as of now, it is seen that there is a pathway in existence in S.No.103/1. It is the admitted case that the defacto complainant tried to construct a compound wall by blocking that pathway and therefore, that incident had happened. Now it is informed that the injured had already been discharged from the hospital. Taking note of all these facts and the fact that in this case, the custodial interrogation of the petitioners is not necessary, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.VI, Madurai, within a period of fifteen days from the date of resumption of regular work in subordinate Courts, on their executing 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 said Magistrate and on further condition that:

[a] the petitioners shall deposit a sum of Rs.5,000/- (Rupees five thousand only) each towards Court deposit to the credit of Cr.No.101 of 2021 without prejudice to their defence and only on such deposit the learned Magistrate shall accept the sureties.

[b] 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;

[c] the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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]**;

[g] If the accused/petitioners thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
15/06/2021

/ 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, MADURAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
NAGAMALAI PUDUKOTTAI POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.5831 of 2021
Date : 15/06/2021

SSL
TE/JC/SAR-IV : 23/06/2021 : 4P/5C