



WEB COPY

Crl.O.P.(MD)No.7371 of 2021:

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

Reserved on	Pronounced on
13.07.2021	15.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) . Nos.7371 and 8364 of 2021

Crl.O.P. (MD)No.7371 of 2021:

1. Rajeswari
2. Meenatshi
3. Ramprabha

... Petitioners/Accused Nos.8,9 and 11

Vs

State Rep.by
The Inspector of Police,
Trichendur Police Station,
Thoothukudi District.
Crime No.149/2021.

... Respondent/Complainant

A.N.Rajakannan

... Intervene Petitioner/
Defacto Complainant
IN CRL MP (MD)No.3950 of 2021
IN CRL OP (MD)No.7371 of 2021

For Petitioner : Mr.R.Vignesh,
Advocate.

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

For Intervenor : Mr.V.Rajiv Rufus, Advocate

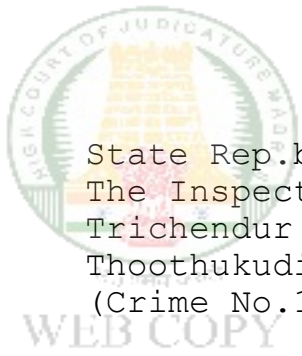
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.149 of 2021 on the
file of the respondent Police.

Crl.O.P. (MD)No.8364 of 2021:

1. Ramaselvam
2. Bhuvaneswari
3. Indhira
4. Lalitha
5. Dhanabal
6. Vairamuthuraj

... Petitioners/Accused Nos.2,3,4,5,12 and 14



Vs

State Rep.by
The Inspector of Police,
Trichendur Police Station,
Thoothukudi District.
(Crime No.149 of 2021)

... Respondent/Complainant

A.N.Rajakannan

... Intervene Petitioner/
Defacto Complainant
IN CRL MP(MD)No.4475 of 2021
IN CRL OP(MD)No.8364 of 2021

For Petitioner : Mr.R.Vignesh,
Advocate.

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

For Intervenor : Mr.V.Rajiv Rufus Advocate

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

PRAYER :- For Anticipatory Bail in Crime No. 149 of 2021 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners /A.8, A.9 and A.11 and A.2 to A.5, A.12 and A.14 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 448, 427, 294(b), 506 (2) and 380 I.P.C., in Cr.No.149 of 2021, on the file of the respondent police seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is a President of Commercial Traders Wing of Bharathiya Janatha Party of Tamil Nadu. They have their office at Door No.80/169-1, Veiluganthaamman Kovil Street, Thiruchendur. One S.Velumuthu is the owner of this premises. The defacto complainant is a tenant under him. On 10.04.2021, at about 01.45a.m., the accused in this case by forming an unlawful assembly broke into the office, damaged CCTV camera, CPU, wires and articles in the office. They also scolded him in filthy language and threatened that they would murder them like they broke the head of Velumuthu. The value of damage is worth about Rs.50,000/-. Therefore, this case came to be registered.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case. The issue involved in this case is a property dispute. It is a civil dispute and suppressing the real issue, this case is foisted against the petitioners to settle the dispute in civil case. Therefore, he seeks anticipatory bail to the petitioners.



4. The learned Counsel for the defacto complainant strongly opposes these petitions on the ground that the investigation has not been done properly by the respondent police. The respondent police is colluding with the petitioners and aiding them. So far, the respondent police have not taken any steps to recover CPU from the petitioners. It shows that they are clearly siding with the petitioners. The injured suffered serious injuries. Therefore, he prays for dismissal of these petitions.

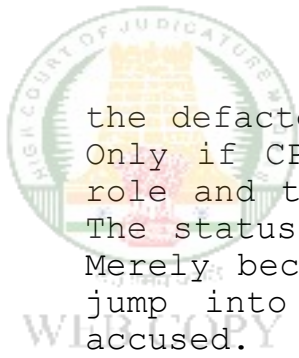
5. In support of his submission, he has produced a copy of legal notices given by the house owner in various newspapers in March 2020, copy of the plaint in O.S.No.171 of 2020, copy of the receipt issued by the Sub-Registrar's Office, dated 28.09.2020, rent agreement dated 05.11.2020, photographs showing the damages, medical records along with photographs, photographs showing close nexus between the police and accused, the notice issued by the respondent police dated 17.02.2021 and the Will dated 10.04.2008.

6. The learned Government Advocate (Crl.Side) appearing for the State opposes this petition on the ground that the investigation is not yet completed. Some of the accused are absconding. The learned Government Advocate (Crl.Side) also filed a status report.

7. It is seen from the status report that the investigation reveals that there is a civil dispute. Due to civil dispute in owing the property, the parties fight with each other. A suit in O.S.No.171 of 2020, before the Sub Court, Thiruchendur, is also pending with regard to the disputed property. It is seen from the report that even before the occurrence, A.9 was dead. The investigation is in preliminary stage. Due to COVID-19 pandemic situation and lock down, the police is not able to secure the accused immediately. There is a specific overt act against the petitioners that they damaged CCTV camera and CPU. Therefore, the learned Government Advocate (Crl.Side) prays for dismissal of this petition.

8. Heard the learned Counsel for the petitioners, the learned Counsel for the intervenor and the learned Government Advocate (Crl.Side) appearing for the State and perused the materials placed on record.

9. The documents produced by both the Counsel for the petitioners and the defacto complainant show that basically the issue involved is a civil dispute, as to who is the owner of the disputed property in D.No.80/169-1 Veiluganthaamman Kovil Street, Thiruchendur. The photographs shown by the learned Counsel for the defacto complainant show that the property of the tenant had been damaged and one suffered head injury. However, this case is not registered for the offence of causing hurt to any one. This case is registered for the offences under Sections 147, 448, 427, 294(b), 506 and 200A of the Indian Penal Code (IPC). The main objection of the learned Counsel for



the defacto complainant is that the accused had taken away the CPU. Only if CPU is recovered, the participants in the incident, their role and the extent of damage to the properties, can be found out. The status report does not say anything about the recovery of CPU. Merely because the accused are seen with the policemen, we cannot jump into conclusion that the police is taking sides with the accused.

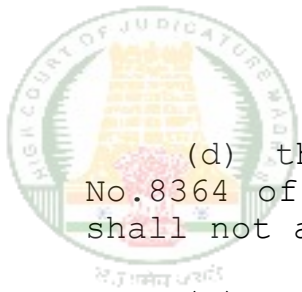
10. Taking all these facts into account, the fact that some of the petitioners are women, also the fact that basically this is a civil dispute and it has to be resolved by a civil Court, that the injured is discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioners, who are women. Since there is no information provided with regard to recovery of CPU, which is an important piece of evidence in this case and also the fact that the investigation is not yet completed, this Court is not inclined to grant anticipatory bail to the male petitioners. **Accordingly, this Criminal Original Petition in Crl.O.P.(MD)No.8364 of 2021 is dismissed in respect of petitioner Ramaselvam/A.2, petitioner Dhanabal/A.12 and petitioner Vairamuthuraj/A.14 are concerned and allowed in respect of petitioners 2, 3, 4/ A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021. Crl.O.P.(MD)No.7371 of 2021 is allowed.**

11. Accordingly, the petitioners 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 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, Trichendur, Thoothukudi 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 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 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 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 shall report before the respondent police as and when required for interrogation;

(c) the petitioners 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 shall not tamper with evidence or witness either during investigation or trial;



(d) the petitioners 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD) No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 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 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD) No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 in accordance with law as if the conditions have been imposed and the petitioners 2, 3, 4/A.3, A.4, A.5 in Crl.O.P.(MD)No.8364 of 2021 and the petitioners in Crl.O.P.(MD)No.7371 of 2021 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/-
15/07/2021

/ 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, TRICHENDUR, THOOTHUKUDI DISTRICT.
 2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
 3. THE INSPECTOR OF POLICE, TRICHENDUR POLICE STATION, THOOTHUKUDI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2 CC to M/s.V.RAJIV RUFUS, Advocate, Sr Nos.4575 & 4576
+2 CC to M/s.R.VIGNESH, Advocate, Sr Nos.4654 & 4655

ORDER IN
CRL OP(MD). Nos.7371 and 8364 of 2021
Date :15/07/2021

SSL

AM/JC/SAR-4/29.07.2021/5P.9C

<https://hcservices.ecourts.gov.in/hcservices/>