



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

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Reserved on	Pronounced on
29.06.2021	01.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.7908 of 2021

1. A.Rajan
2. R.Dhanalakshmi ... Petitioners/Petitioners/
Accused 1 and 2

Vs

State Rep. by
The Inspector of Police,
Bodinayakanur Town Police Station,
Theni District.
Crime No.153/2021. ... Respondent/Respondent/Complainant

R.Vijaya ... Intervening Petitioner/
De-facto Complainant
In CRL MP(MD) No.4213 of 2021
In CRL OP(MD) No.7908 of 2021

For Petitioners : MR.S.Saravanakumar,
Advocate.

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

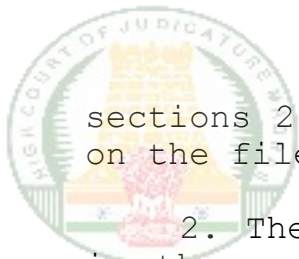
For Intervenor : Mr.M.Karunanithi,
Advocate

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

PRAYER :- For Anticipatory Bail in Crime No.153/2021 on the file
of the respondent Police

ORDER : The Court made the following order :-

The petitioner/A.1 and A.2, apprehending arrest at the hands of
the respondent police for the alleged offence punishable under
<https://hoseervices.ecourts.gov.in/hoseervices/>



sections 294(b), 323, 342 and 506(i), I.P.C., in Cr.No.153 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the owner of the house bearing Door No.22, at Subramaniaswamy Koil Street, Bodinayakanur. She got this property through a Will executed by her father. Her brother Pavunraj had encroached one portion of the property and he was living there in his family. Therefore, she filed a suit in O.S.No.332 of 1997, on the file of the District Munsif Court, Bodinayakanur. The suit ended in her favour. Pavunraj filed an appeal in A.S.No.4 of 1996 and that was dismissed. Against the dismissal of the first appeal, Pavunraj preferred second appeal in S.A.(MD)No.628 of 2007, before this Court and that was also dismissed on 25.09.2018. In the meanwhile, one Rajan, who is unknown to the defacto complainant filed O.S.No.200 of 2012 against the defacto complainant. The defacto complainant filed E.P.No.19 of 2019 for taking possession of the property. However, the said Rajan obstructed the defacto complainant from taking possession. Subsequently, possession of one portion of the property was delivered to the defacto complainant. When the defacto complainant approached the police against the said Rajan for preventing her from taking possession, the police cited the pendency of O.S.No.200 of 2012. Thereafter, after contest, O.S.No.200 of 2012 was dismissed on 25.01.2021. The defacto complainant is a senior citizen and she had fought for more than 25 years for taking possession of her property. Earlier by his brother and now by Rajan, she is prevented from taking possession of the property. When the defacto complainant visited the property on 12.03.2021, at about 01.30 pm., the petitioners and their henchmen prevented the defacto complainant from entering into the property belong to her, hit her and criminally intimidated her and not only that, the defacto complainant had been illegally confined inside the house and locked from outside. Hence, the present case came to be registered.

3. Earlier, anticipatory bail petition filed by the petitioners in Crl.O.P.(MD)No.4441 of 2021 was dismissed on 26.04.2021, after elaborately considering the rival submissions of the parties. When that being the case, this anticipatory bail petition is filed alleging that there is a change of circumstances. As regards the change of circumstances, the learned Counsel for the petitioners submitted that after dismissal of the earlier anticipatory bail petition, he has sent a legal notice to the defacto complainant on 08.06.2021 and that was replied by the defacto complainant on 10.06.2021. Except sending this legal notice, the petitioners had not shown any other change of circumstances. Perusal of the legal notice shows that the first petitioner claims to be a tenant in respect of a portion of the property under the defacto complainant's brother - Pavunraj. This fact was already discussed and rejected in the earlier anticipatory bail order. In paragraph No.4 of the legal notice, the first petitioner states that he has requested the defacto complainant so many times to enter into a fresh sale



agreement in respect of a portion. Earlier he claimed himself to be a tenant and now he wants the defacto complainant to enter into a sale agreement with him. It shows the true intention of the petitioner to grab the property of the defacto complainant.

4. The learned Counsel for the intervenor and the learned Government Advocate (Crl.Side) appearing for the State strongly oppose this petition.

5. As indicated above, this Court finds that there is no change of circumstances, since the dismissal of the earlier anticipatory bail petition warranting consideration of the present anticipatory bail petition. In such view of the matter, this Court finds that petitioner is not entitled to anticipatory bail. Accordingly, this Criminal Original Petition is dismissed.

sd/-
01/07/2021

/ 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 INSPECTOR OF POLICE,
BODINAYAKANUR TOWN POLICE STATION,
THENI DISTRICT.

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

+1 CC to M/s.S.SARAVANAKUMAR, Advocate (SR-4284[I] dated 01/07/2021)

ORDER
IN
CRL OP(MD) No.7908 of 2021
Date :01/07/2021

SSL
JM/MNR/SAR I/05.07.2021/3P/4C

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