



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.7766 of 2021

1. R.Ramesh
2. R.Suresh
3. R.Ginu
4. Maria Pasili

... Petitioners/Accused 1 to 4

Vs

The State Rep. by
The Inspector of Police,
Eraniel Police Station,
Kanyakumari District.
Crime No.383 of 2021.

... Respondent/Complainant

For Petitioner : Mr.John Jayakumar J, Advocate.

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

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

PRAYER :- For Anticipatory Bail in Crime No.383 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 447, 427, 294(b) and 506(ii) of IPC in Crime No.383 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant claims to be the owner of 10 cents of land and other properties in Re-Survey No.34/3 in Neyyoor Village. The compound wall on the eastern side of this property divides his other properties. This compound wall is an existence, even prior to his purchase and constructed by Jenmi. On 05.06.2021 at about 08.00 a.m., the accused had illegally encroached upon his land and damaged the compound wall. On being informed about this incident, the de-facto complainant went to his land and questioned the accused as to why they have damaged the compound wall. The accused threatened him that they would kill him. It is seen that the first accused tried to attack him with Kadaparai, second accused caught hold of him,



fourth accused gave aruval to the third accused and the third accused tried to attack him with aruval. The de-facto complainant evaded the attack and the aruval hit attack a tree and tree had broken. The second accused thrown stone on him and all the accused made criminal intimidation and they would murder the de-facto complainant. The petitioners also caused damage to the tune of Rs.15,000/- to the de-facto complainant.

3.The learned counsel for the petitioners would submit that this case is a false case given with incorrect and false particulars. In fact the second petitioner is the owner of the property by virtue of the settlement deed, dated 14.09.2012. The suit filed by the de-facto complainant's uncle in O.S.No.149 of 2012 was dismissed as abated. The petitioners also filed civil suit, which is to be numbered for seeking the relief of declaration of title and other relief. The civil dispute is sought to be converted into a criminal dispute by giving criminal color with exaggerated facts. He would further submit that the petitioners are innocents and therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate(Crl.Side) appearing for the respondent strongly opposed this petition on the ground that investigation is pending. He would further submit that the petitioners caused damage to the property worth about Rs.15,000/-.

5.Taking note of the fact that already a civil suit was filed and it is to be numbered and that there are claims and counter claims with regard to the property and there is a previous suit in O.S.No.149 of 2012 was dismissed as abated, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Eraniel, 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 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 are jointly directed to deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of Crime No.383 of 2021 before the learned Judicial Magistrate, Eraniel,** within a period of two weeks without prejudice to their rights and contentions before the trial Court;



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

+1 CC to Mr.J.JOHN JAYAKUMAR, Advocate (SR-4024[I]dated 17/06/2021)

ORDER IN
CRL OP(MD) No.7766 of 2021
Date :15/06/2021