



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

Date : 21/06/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.7835 of 2021

1. Durairaj
2. Viseyanthi
3. Michael Antony
4. Ananth @ Ubahara Ananth
5. Velmurugan
6. Santhi @ Arulsanthi

... Petitioners/Accused Nos.1 to 6

Vs

The State rep.by
The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.
(Crime No-293/2021).

... Respondent/Complainant

Viyalula Arputha Latha

... Petitioner/Intervenor
in CRL MP(MD)No.4152 of 2021
in CRL OP(MD)No.7835 of 2021

For Petitioners : Mr.C.Susi Kumar,

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

For Intervenor : Mr.Ramakrishna Dass, Advocate

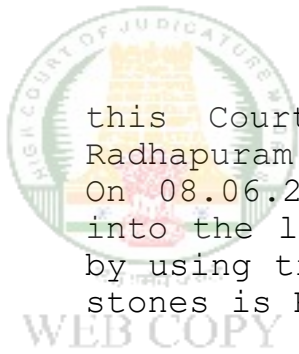
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- for anticipatory bail in crime no.293 of 2021 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 447, 379 IPC in Crime No.293 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant and the accused have lands adjacent to each other. There is a boundary dispute between them. It is alleged in FIR that the defacto complainant approached this Court seeking direction for measuring their lands and laying boundary and as per the order of



this Court, on 05.03.2021, they measured the property through Radhapuram Head Surveyor and put up fence by laying boundary stones. On 08.06.2021, the accused in this case had illegally trespassed into the land of the defacto complainant removed 32 boundary stones by using tractor bearing registration No.TN72CZ147. The value of the stones is Rs.1,25,000/-. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and admittedly, there is a boundary dispute between the parties and on account of the same, the present false case has been registered.

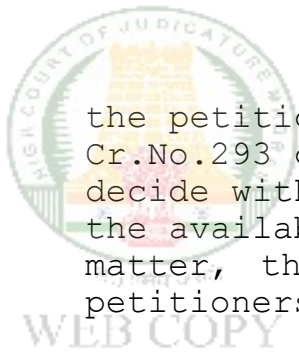
4.The learned counsel for the intervenor strongly opposed this petition on the ground that the defacto complainant is the owner of the land and he produced sale deed and patta and survey summons. He also produced the copy of the representation given to the Superintendent of Police and also an order of this Court in W.P.(MD) No.1384 of 2021.

5.It is seen from the order of this Court in W.P.(MD)No.1384 of 2021 that it was only a direction given to the fourth respondent in that petition to dispose of the representation submitted by the defacto complainant on merits and in accordance with law. No order that this Court had permitted the defacto complainant to lay boundary stones in the land was passed.

6.The learned counsel for the intervenor further submitted that the petitioners had caused damage to the boundary stones, which was worth about Rs.1,25,000/- and therefore, he seeks dismissal of this petition.

7.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that this case was registered only on 11.06.2021 and the investigation is pending.

8.It is seen from the documents produced in the form of typed-set that there is boundary dispute between the accused and the defacto complainant. In the said dispute, the petitioners alleged to have removed boundary stones laid by the defacto complainant. *Prima facie*, it appears that the dispute involved in this case is identification of the boundary between two lands owned by two parties. It requires the service of a surveyor for fixing boundary on the basis of the title deed of both parties. It is a matter of civil dispute and only a civil Court can settle the dispute, if proper suit is filed before the competent civil Court. This Court while considering the anticipatory bail petition cannot go deep into the aspects which are the domain of the civil Court. However, considering the allegation that 34 boundary stones, worth about Rs.1,25,000/-, said to have been removed by the petitioners and the same was denied by the petitioners, this Court is of the view that



the petitioners shall jointly deposit Rs.1,25,000/- to the credit of Cr.No.293 of 2021 before the concerned Court. The Court below shall decide with regard to the disbursement of the amount on the basis of the available evidence, at the end of the trial. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioners.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Valliyoor 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 shall jointly deposit a sum of Rs.1,25,000/- to the credit of Cr.No.293 of 2021 before the learned Judicial Magistrate Court, Valliyoor.

[c] the petitioners shall report before respondent police daily at 10.30 am., 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
21/06/2021

/ 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,
VALLIYOOR
- 2.-DO-THRO'THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PANAKUDI POLICE STATION,
TIRUNELVELI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

IN
CRL OP(MD) No.7835 of 2021
Date :21/06/2021

GNS
AE/MNR/SAR-III/23.06.2021/4P/5C