



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/07/2021

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PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.8562 of 2021

1. Kalai Eswari
2. Hariharan
3. Moovendran
4. Karuppayee

... petitioners/Accused
No.1,3 to 5

Vs

The State Rep. by
The Inspector of Police,
Kadamalaikundu Police Station,
Theni District,
Crime No. 339/2021.

... Respondent/Complainant

For petitioners : Mr.Muniyandi.S,
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.339 Of 2021 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioners/A1, A3 to A5, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 294(b), 323, 324 and 506(ii) of IPC, in Crime No.339 of 2021, seek anticipatory bail.

2.The case of the prosecution is that there is a long lasting dispute between the de-facto complainant and the accused for over 25 years. They are neighbors. The dispute related to the land in between their houses. When the de-facto complainant was asking permission from the third petitioner for plastering his wall, he was not permitted. On 20.06.2021 at about 05.45 p.m., the de-facto complainant was working on the western portion of his house. A gunny bag fell in the third petitioner's land. The first petitioner and A2 (Lakshmi) scolded him in filthy language. When the de-facto complainant tried to take the gunny bag, the second



petitioner/Hariharan hit him with iron rod on his left hand. The petitioners 3 and 4 had scolded the de-facto complainant in filthy language and then, the petitioners 2 and 3 had beaten him with iron rod repeatedly and also criminally intimidated him. Therefore, this case came to be registered.

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3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case. Hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation in this case is not completed. He fairly conceded that thereafter injured was already discharged from the hospital.

5.Taking into consideration the facts and circumstances of the case and the fact that the injured was already discharged from the hospital and also the fact that the nature of the dispute, this Court is inclined to grant anticipatory bail to the petitioners with conditions.

6.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, Andipatti, Theni 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 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 report before the respondent police, daily at 10.30 a.m., until further orders;

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

[d]the petitioners 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 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]**;



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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sd/-
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/ /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,
ANDIPATTI, THENI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
KADAMALAIKUNDU POLICE STATION,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.8562 of 2021
Date :07/07/2021

SJI
TE/SKN/SAR-V : 09/07/2021 : 3P/5C