



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 25.10.2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.11965 of 2021

1.Vasanth Kumar
2.Mahesh

... Petitioners/Accused Nos.1 & 2

Vs

The State represented by
The Inspector of Police,
Kurvikulam Police Station,
Tenkasi City,
[Cr.No.240 of 2021]

... Respondent/Complainant

For Petitioners : Mr.R.J.KARTHICK, Advocate
For Respondent : Mr.P.KOTTAI CHAMY
Government Advocate (Crl.Side)
For Intervenor : Mr.A.E.RAVICHANDRAN, Advocate
for Mr.N.ANBAZHAGAN, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.240 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 offence punishable under Sections 452, 294(b), 307, 324, 427 and 506(ii) IPC in Crime No.240 of 2021, seek anticipatory bail.

2.The case of the prosecution is that on 12.08.2021 at about 5.30pm, the accused trespassed into the defacto complainant's house, assaulted him and his wife with sickle and iron rod and attempted to kill them. Further they have also abused the defacto complainant in filthy language and criminally intimidated them and damaged the household articles. Hence the complaint.

3.The learned counsel for the petitioners submitted that due to previous motive in connection with Co-Operative Society Election, this false case has been foisted against the petitioners.

4.The defacto complainant has filed intervening application through Counsel Mr.A.E.Ravichandran. The learned Counsel for the

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



intervenor submitted that the defacto complainant is a retired headmaster, aged about 73 years and his wife is also a retired Teacher. On 12.08.2021, when the defacto complainant his wife were in his house, the first accused armed with aruval and the second accused armed with iron rod, barged into the house of the defacto complainant claiming that the defacto complainant is the root cause for his sister's defeat in the election, brutally attacked the defacto complainant. According to the learned Counsel, the defacto complainant has sustained grievous injuries and the entire episode has also been recorded in the CCTV camera.

5.The learned Counsel for the petitioner submits that both of them belong to the same village. The election cannot be cited as reason for the incident. The defacto complainant has prevented these petitioners from getting agricultural loan and therefore, there was exchange of heated words and therefore, the defacto complainant has foisted this false case.

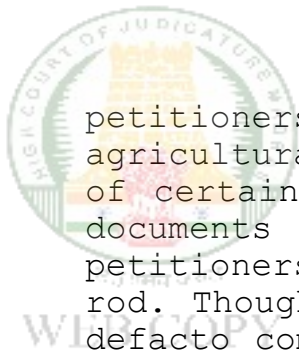
6.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.

7.On the earlier occasion, it was represented that if the matter is referred for Mediation, there is a possibility of settling the issue. Therefore, this matter was referred to the Mediation Centre by appointing Advocate Mr.R.Karunanithi as Mediator.

8.Mr.R.Karunanithi, learned Mediator has filed his report stating that on 11.09.2021 the petitioners Vasantha Kumar and Mahesh came for mediation along with their Counsel. But the defacto complainant did not appear on 11.09.2021 and the Counsel for the defacto complainant expressed that the defacto complainant was not willing to participate in the mediation process. Despite several phone calls, SMS and WhatsApp message from the learned Mediator, the defacto complainant did not take part in the mediation process. Finally, the counsel for the defacto complainant sent an email that the defacto complainant is not willing for mediation. Therefore, mediation could not be held.

9.The Inspector of Police, Kuruvikulam Police Station, who is the investigating officer in this case has filed a report before this Court stating that the petitioners, for getting agricultural loan approached the Secretary of Naaluvasan Kottai Primary Agricultural Society, in which, the sister of A1 contested in the President's election two years before and lost the election. At that time, the Secretary did not give proper reply, but the defacto complainant replied and refused loan to the petitioners and abused A-1's mother and sister.

10.The Investigation Officer has further stated that he has enquired the Secretary of Naaluvasankottai Primary Agricultural Society and recorded his statement, wherein he has admitted that the



petitioners and four others have approached him on 12.08.2021 for agricultural loan and he being the Secretary insisted for production of certain documents and accordingly, the petitioners produced the documents and he insisted for certain more documents, but the petitioners abused him and tried to attack him with sickle and iron rod. Though the learned Counsel for the petitioners claims that the defacto complainant is responsible for the incident, they could not produce any material to substantiate their case.

11. Admittedly, the first petitioner's sister contested in the election for Office bearers in Naaluvasankottai Primary Agricultural Society, wherein, she has lost the election and the defacto complainant has supported the present office bearers in the election and they are now in the administration.

12. On 12.08.2021 the petitioners have approached Naaluvasankottai Primary Agricultural Society for getting agricultural loan, where the Secretary has insisted for production of certain documents. Though the petitioners have produced the documents as insisted, some more documents have been sought for and infuriated over the issue that at the instance of the defacto complainant only they are denied loan, abused and attacked him and the investigation is at crucial stage and whether the defacto complainant has provoked the petitioner or the petitioners have provoked the defacto complainant, is a matter for investigation and it can only be ascertained during the trial.

13. Though it is stated by the defacto complainant that keeping in mind the election dispute, the petitioners have attacked the defacto complainant, it is seen that the election was held before two years. But this incident has occurred on 12.08.2021 on account of the denial of the agricultural loan to the petitioners.

14. In view of the above and considering the facts and circumstances of the case, the nature of allegations levelled against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, this criminal original petition is allowed. 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, Sankarankovil, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.



[b]the petitioners shall report before the respondent police daily at 10.30 am., until further orders.

[c]the petitioners shall not tamper with the 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 petitioner are 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.

sd/-
25/10/2021

/ 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
SANKARANKOVIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
KURVIKULAM POLICE STATION,
TENKASI CITY
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.11965 of 2021
Date :25/10/2021

SA/VR/SAR.4/09.11.2021/4P/5C