



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.12043 of 2021

1. Arunachalam
2. Asha

... Petitioners/Accused No.1 & 2

Vs

State rep.by
The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District
(Crime No.905 of 2021).

... Respondent/Complainant

For Petitioners : M/s.B.Fazil Kirmani, Advocate
for M/s.Karunakaran.K.M, Advocate.

For Respondent : M/s.P.Kottaichamy,
Government Advocate (Crl.Side)

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

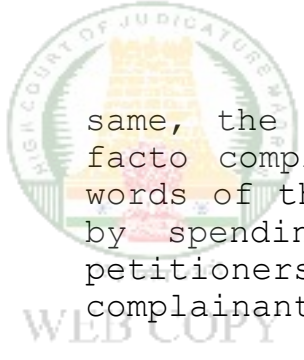
PRAYER :-

For Anticipatory Bail in Crime No.905 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2 apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 323 and 436 IPC in crime No.905 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are doing real estate business and they had received money from the de-facto complainant by showing a land for sale and evaded from registering title deed in their name for nearly three years. When the de-facto complainant forced the petitioners to register the



same, the petitioners had shown some other land and asked the de-facto complainant to set up a hut and stay there. Believing the words of the petitioners, the de-facto complainant had set up a hut by spending his own money of Rs.25,000/-. On 03.08.2021, the petitioners said to have set fire to the hut of the de-facto complainant and also caused damage to the tune of Rs.25,000/-.

3.The learned counsel for the petitioners submits that though the de-facto complainant had entered into an agreement with the petitioners for purchase of plot, she did not pay the amount and therefore, the plot was sold to another person. But the de-facto complainant, in order to occupy the land, has put up a thatched shed and was creating a record as if he staying in the land, which was sold to another person. He further submits that the petitioners are not responsible for the fire incident that took place in the thatched shed. However, to show their bona fide, the petitioners are ready to deposit a sum of Rs.25,000/- to the credit of Crime No.905 of 2021 without prejudice to their defence before the trial Court.

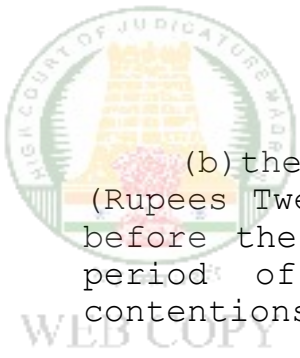
4.The learned Government Advocate (Crl. side) for the respondent strongly opposed this petition on the ground that investigation is yet to be completed.

5.Considering the rival submissions made, this Court has directed the respondent police to enquire into the issue with the de-facto complainant and to file a report. The Inspector of Police, Iyyampattai Police Station filed a report, dated 07.09.2021, that despite the repeated call from his office, the de-facto complainant has not co-operated for the enquiry and insisted for arrest of the petitioners.

6.Taking into consideration of the nature of allegation and the fact that the petitioners are willing to deposit a sum of Rs.25,000/- to the credit of Crime No.905 of 2021, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.III, Thanjavur 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 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 are directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand) to the credit of Crime No.905 of 2021 before the learned Judicial Magistrate No.III, Thanjavur, 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 the 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]**; and;

(g) if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
07/09/2021

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/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

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.



1. The Judicial Magistrate No.III, Thanjavur.

2. The Chief Judicial Magistrate,
Thanjore District at Kumbakonam.

3. The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.12043 of 2021

Date :07/09/2021

SP/VR/SAR I/23/09/2021/4P/5C