



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/09/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12366 of 2021

S.P.Prabin

... Petitioner/Sole Accused

Vs

The Sub Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari.
(Crime No.425 of 2021)

... Respondent/Complainant

For Petitioner : M/s. Janakiramulu.V, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.425 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 294(b) & 506(ii) IPC in Cr.No.425 of 2021, seeks anticipatory bail.

2. The defacto complainant is an Advocate. The petitioner is the son of the defacto complainant and he is said to have demanded property from the defacto complainant and his wife. The case of the prosecution is that on 19.08.2021, at 19.30 hrs., the petitioner, under the influence of alcohol, came to the house of the defacto complainant, abused his elder brother S.P.Jerin, who is also an Advocate, tried to take a knife to attack him and on seeing the same, he ran away. The defacto complainant and his wife went inside their room and locked the door. After shouting at them, the petitioner left the house. Hence, the present complaint.



3. The learned counsel for the petitioner submits that this complaint is a false one. There are ancestral properties without partition. The defacto complainant is trying to sell some ancestral properties, which was objected to by the petitioner. Further, one Suresh was a tenant of two shops in the defacto complainant's property. Since he was quarrelling with other tenants, the petitioner asked him to vacate the shop. Therefore, he vacated the shop and handed over the key to the defacto complainant, which has provoked the defacto complainant. At the instance of the defacto complainant, the said Suresh again came to the shop and opened another shop. When the same was questioned by the wife of the petitioner, the said Suresh abused his wife and humiliated her in public. Further, on 21.07.2021, at about 4.00 p.m., when the petitioner was standing in front of his house, the said Suresh at the instigation of the defacto complainant, came in a car, took an iron rod and attacked him on his head, face, left hand and elbow and caused injuries. When he was taking treatment at Government Hospital, Kuzhithurai, on 21.07.2021, a police officer from the respondent Police station came there and recorded his complaint. But, no case has been registered so far on the said complaint. At the instance of the defacto complainant, the respondent acted in a biased manner in not registering any FIR so far.

4. The learned Government Advocate (Crl. Side) submits that the dispute is purely civil in nature. In this case, no one has been injured. The petitioner is not having any previous case.

5. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioner, the antecedent of the petitioner and the fact that the dispute is purely civil in nature and no one has been injured in this case, this Court is inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Kuzhithurai, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation.



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

[d]the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
07/09/2021

/ TRUE COPY /

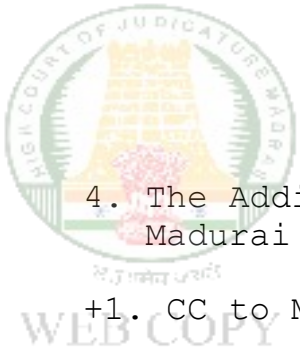
/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

OGY

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,
Kuzhithurai.
2. The Chief Judicial Magistrate,
Kanyakumari District.
3. The Sub Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari.



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

+1. CC to M/S. JANAKIRAMULU.V Advocate SR.No.6131

ORDER

IN

CRL OP (MD) No.12366 of 2021

Date :07/09/2021

SP/JC/SAR I/16/09/2021/4P/6C