



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 06/10/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.12747 of 2021

Balamurugan

... Petitioner/1st Accused

Vs

The State rep.by
The Inspector of Police,
Thiruppalaikudi Police Station,
Ramanathapuram District.
Crime No.118 of 2021

... Respondent/Complainant

For Petitioner : Mr.P.PETHU RAJESH,
Advocate.

For Respondent : Mr.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.118 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent Police, for the offence punishable under Sections 447, 427 and 436 of IPC, in Crime No.118 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that there is enmity between the defacto complainant and the petitioner's family in connection with a poromboke land in the village. The petitioner had encroached the poromboke land on the east of Mandhinadhar Temple Oorani and stocked haystack. He tried to put up shed in that place. The defacto complainant along with other villagers prevented him from putting up the shed. Therefore, the petitioner got enraged against the defacto complainant and made criminal intimidation against him. The defacto complainant had made barbed wire fencing in his land. On 02.07.2021, at about 01.45 a.m., some persons had damaged the fencing stones and set fire to the haystack. It was informed to him through phone. Immediately, he along with others visited the spot. On seeing them, the petitioner Balamurugan and his relative's son Balamurugan fled from there. Damage caused was worth about Rs.20,000/-. Hence, the complaint.



3. The learned counsel for the petitioner submits that the petitioner is an innocent person and he is falsely implicated in this case. In fact, he is a social activist and had taken several steps to protect the natural resources. He lodged a complaint against the defacto complainant's father Subramanian and 19 others before the respondent Police and a case was registered in Crime No.188 of 2016 under Sections 147, 341, 294(b) and 506(i) of IPC and 3(1)(4) and 3(1)(s) of SC/ST Act, 2015. The said complaint was forwarded by the Deputy Superintendent of Police and he confirmed that the way in dispute is a common way in a poromboke land and directed the defacto complainant's father not to block the said common way.

4. The learned counsel for the petitioner further submits that they have lodged a complaint as against the defacto complainant's father and also filed a Writ Petition before this Court in W.P.(MD) No.18883 of 2019 for issuance of a Writ of Mandamus, to direct the respondents to take necessary action in accordance with law for the removal of encroachment after affording an opportunity to all the parties concerned, comprised in Survey No.68 of Manthiranathar Kovil Street, Thiruppalaikudi Village, Tiruvadani Taluk, Ramanathapuram District, based on the petitioner's representation, dated 13.07.2019, implicating the defacto complainant as one of the persons illegally removing sand and encroaching the land. Not only that, the Police Inspector was helping the encroachers and he has also sexually abused his wife. Therefore, the petitioner's wife gave a complaint to the Superintendent of Police, Ramanathapuram. During enquiry, he also appeared on 27.05.2021 and gave his statement. Therefore, a case was registered against this petitioner. The learned counsel for the petitioner also relied on the message which was sent from the Inspector of Police, Thiruppalaikudi to the petitioner.

5. Considering the said submissions, this Court, vide order dated 07.09.2021, directed the Superintendent of Police to file a report as to the status of the enquiry conducted by him in Na.Ka.No.37/K.K.K(T)/Rama/2021, dated 21.05.2021 and also directed the Superintendent of Police to verify with regard to the complaint filed before this Court and the enquiry conducted by the Deputy Superintendent of Police and the allegation as against the petitioner in the final report filed by the Deputy Superintendent of Police.

6. Pursuant to the direction of this Court, a report has been filed by the Deputy Superintendent of Police, Thiruvadani, on 04.10.2021, that a disciplinary action has been contemplated as against the Inspector of Police, Thiruppalaikudi Police Station.

7. Considering the submissions made on behalf of the petitioner, a report of the Deputy Superintendent of Police, Thiruvadani and the materials available on record, this Court is



8. Accordingly, this Criminal Original Petition is allowed. The petitioner is ordered 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 No.I, Ramanathapuram, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 Aadhaar card or bank pass book to ensure their identity.

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

[c]the petitioner shall not tamper with the 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 is 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/-

06/10/2021

/ 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 NO.I, RAMANATHAPURAM.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.



3 THE INSPECTOR OF POLICE
THIRUPPALAIKUDI POLICE STATION,
RAMANATHAPURAM DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVADANAI.

+1. CC to Mr.P.PETHU RAJESH, Advocate SR.No.6954

ORDER

IN

CRL OP(MD) No.12747 of 2021

Date :06/10/2021

SA/JM/SAR.3/25.10.2021/4P/7C