



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16.09.2021

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PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.13344 of 2021

Akbar Ali

... Petitioner/Accused No.14

Vs

State rep. by,
The Inspector of Police,
Ilayankudi Police Station,
Sivagangai District.
(Crime.No.352 of 2021).

... Respondent/Complainant

For Petitioner : Mr.G.Prabhu Rajadurai
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

For Intervenor : Mr.Isaac Mohanlal Sr. Counsel
for Mr.Thayumana Swamy
Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.352 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused No.14 herein, who was arrested on 19.08.2021 for the alleged offence under Sections 147, 294(b), 427, 448 and 506(i) of IPC, in Crime No.352 of 2021 on the file of the respondent police, seeks bail.

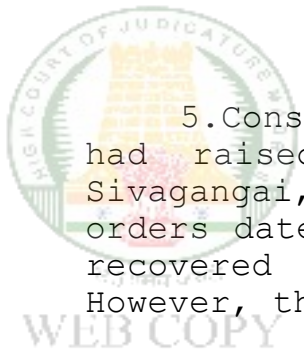
2. The case of the prosecution is that the defacto complainant lodged a complaint that on 04.08.2021 at about 11.30 a.m. accused nos. 1 to 3, along with others unlawfully assembled, broke open the door of the house of the defacto complainant, trespassed into the house and



wrongfully restrained the defacto complainant and her family members in a room. Further they obtained signatures of the defacto complainant and her husband in unfilled white papers and in Rs.100/- stamp papers. While so, on 17.08.2021 at about 11.30 p.m. the petitioner/accused No.14 along with other accused came to the defacto complainant's house in a mini lorry bearing Registration No.TN 65 W 8472 and took away the household articles worth about Rs.4,50,000/- and the said articles were placed in the house of the petitioner and based on the complaint lodged by the defacto complainant, the petitioner and seven others were arrersted by the respondent police.

3.The learned counsel for the petitioner submits that for the incident took place on 04.08.2021, the complaint was registered on 11.08.2021 and for the occurrence took place on 17.08.2021, the complaint was registered on 19.08.2021 and this petitioner was arrested. He further submits that the defacto complainant has acted as an agent of one Dinesh Kumar and collected more than rupees Ten Crore, from various persons and therefore, the villagers have demanded the defacto complainant to return the money and in order to escape from the offence committed by the defacto complainant, he has foisted this false complaint as against this petitioner. He further submits that the petitioner is a social activist, aged about 65 years and he is languishing in jail for the past one month.

4.Mr.Isaac Mohanlal, learned Senior Counsel appearing for the defacto complainant sought permission of this Court to file an intervening application in this matter and made his submission that the accused Dinesh Kumar has cheated several persons in the village. The defacto complainant, is also a victim at the hands of the accused Dinesh kumar and a separate complaint is pending before the District Crime Branch, Sivagangai in Crime No.16 of 2021. While so at the instance of the petitioner herein/accused No.14, all the accused trespassed into the house of the defacto complainant and put her under threat and obtained signatures in blank papers on 04.08.2021. This incident was intimated to police control room through phone number 100. Though the defacto complainant has lodged a complaint, the respondent police have not acted, since the accused are influential persons. Again on 17.08.2021, the accused came to the defacto complainant's house, broke open the doors with tools and took away all the belongings of the defacto complainant from her house worth about several lakh. For this incident also, a complaint was lodged by the defacto complainant that was registered on 19.08.2021. The learned Senior Counsel further submits that only a few articles have been recovered and several articles are yet to be recovered. He also produced certain photographs to substantiate his case that the accused broke open the house of the defacto complainant during mid-night and the belongings of the defacto complainant taken from her house, were kept in the lawn of the petitioner's house for some time.



5.Considering the rival submissions on either side this Court had raised certain queries to the Superintendent of Police, Sivagangai, by earlier order dated 13.09.2021. Pursuant to the orders dated 13.09.2021, it appears that the respondent police have recovered all the stolen articles of the defacto complainant. However, the report has not been filed.

6.The learned counsel for the petitioner submits that this petitioner is aged about 65 years. The petitioner is a Post Graduate and a Social Worker, however, he has been roped in this case. The learned counsel would submit that the petitioner was arrested on 19.08.2021 and languishing in jail for the past 26 days. He would further submit that the petitioner underwent a surgery for spinal cord problem and he is in need of supply of pure oxygen very often. He has produced certain medical records in support of his contention.

7.Considering the health condition of the petitioner and the fact that the stolen articles have been recovered, this Court is inclined to grant bail to the petitioner.

8.Accordingly, the petitioner is ordered to be released on bail on his executing 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 Judicial Magistrate, Ilayankudi, Sivagangai District and on further condition that:

[a] 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 concerned respondent police on every Monday at 10.30 a.m. until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness 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 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]**.



[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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16/09/2021

/ TRUE COPY /

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

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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, Ilayankudi,
Sivagangai District.
2. Do Through The Chief Judicial Magistrate,
Sivagangai.
3. The Officer Incharge, Sub Jail, Ramanathapuram.
4. The Inspector of Police,
Ilayankudi Police Station,
Sivagangai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-6290[I] dated 16/09/2021)

ORDER IN
CRL OP(MD) No.13344 of 2021
Date : 16.09.2021

TR/JGB/SAR-IV(16.09.2021) 4P 7C