



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 08/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.16022 of 2020

1.Solaimathi
2.Suresh

... Petitioners/Accused 1 & 2

Vs

State rep.by,
The Inspector of Police,
Tallakulam Police Station,
Madurai.
Crime No.2483 of 2020.

... Respondent/Complainant

Gopala Krishnan

... Petitioner/Intervener
in CrI.MP(MD)No.133/2021
in CrI.OP(MD)No.16022/2020

For Petitioner : Mr.S.Elumalai,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (CrI.Side)

For Intervenor : Mr.S.M.A.Jinnah
Advocate.

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

PRAYER :-

For an Anticipatory Bail in Crime No.2483 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who were apprehend arrest at the hands of the respondent police for the offences punishable under Sections 447, 147, 148, 294(b), 506(ii), 427 of IPC and Section 3 of Tamil Nadu Public Property (Prevent of Damage and Loss) Act, seek anticipatory bail.

2.The case of the prosecution is that on 20.02.2020 at about 11.00 a.m., the petitioners along with others had entered into the school property of the de-facto complainant and damaged the fence and also threatened the teachers and students. Further they are also assaulted the watchmen, due to which, the watchmen took treatment as



inpatient. There is an existing dispute between the petitioners and the de-facto complainant over the land, in which, the petitioners are said to have purchased from the de-facto complainant's father.

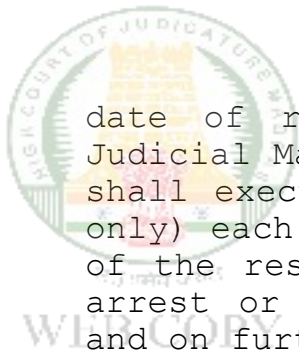
3.The learned counsel for the petitioners would submit that the petitioners have been falsely implicated in this case, the first petitioner is the railway employee and the second petitioner is the brother of first petitioner. The petitioners had purchased the vacant land from E.M.G.Soundararajan, who is the son of Late.E.M.Gopalakrishnan, who had formed a trust in the name of E.M.G Trust and the said trust is running the school. Now the school is managed by one Indiraniammal, D/o. E.M.G. Soundrarajan. The petitioners had purchased the property on 29.11.2002 and from 2002, they are in possession of the same. Now the de-facto complainant wants to encroach upon the petitioners' land and lodged a false complaint as if the petitioners had attempted to damage the fence and encroached the school property. He would further submit that the de-facto complainant earlier filed a civil suit before the District Munsif, Melur in O.S.No.314 of 2010, seeking cancellation of the sale deed executed by her father.

4.The learned Government Advocate (Crl. side) would submit that the complaint was forwarded by the learned Judicial Magistrate under Section 156(3) of Cr.P.C. Hence, the case came to be registered in crime No.2483 of 2020 and the investigation is in progress.

5.The learned counsel for the intervenor submits that the school is a Government Aided School, which is instituted by E.M.G. Trust. The grand-father of the de-facto complainant had formed the trust that it is being a public service for education of the poor needy students. The land belongs to the trust and the de-facto complainant's father had been deceived and the land had been purchased by the petitioners against which, the de-facto complainant had filed a civil suit, which is pending. He would further submit that the petitioners were entered into the property and encroached upon the school property by using force. Further, the watchmen of the school has been badly hurt and he had taken treatment as inpatient for fourteen days and the petitioners damaged the fence of the school property, which is worth about Rs.1,00,000/-.

6.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, the petitioners are directed to deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** jointly to the credit of Parent Teachers' Association of Sri Gopala Krishna Higher Secondary School, Siruthur, Madurai, without prejudice to their rights and contentions before the Trial Court. On such deposit being made, the petitioners are ordered to be released on bail in the event of their appearance, within a period of two weeks from the



date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)The petitioners 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 petitioners shall report before the respondent police as and when required for interrogation.

(c)the petitioners shall not tamper with 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 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;

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

sd/-
08/01/2021

/ 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.II,
MADURAI.

2. DO THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3. THE INSPECTOR OF POLICE,
TALLAKULAM POLICE STATION, MADURAI.

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

COPY TO: THE OFFICER IN-CHARGE,
PARENT TEACHERS ASSOCIATION OF
SRI GOPALA KRISHNA HIGHER SECONDARY SCHOOL,
SIRUTHUR, MADURAI

+1. CC to MR.S.ELUMALAI, Advocate SR.No.200

ORDER

IN

CRL OP(MD) No.16022 of 2020

Date : 08/01/2021

SJI

PK/KV/SAR-II/27.01.2021 : 4P/7C