



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

Date : 27/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.16472 of 2021

WEB COPY

1. Thirumalai Raja
2. Jegajeevan

... Petitioners/Accused No.1 & 2

Vs

The State rep.by,
The Inspector of Police,
Thoothukudi South Poilce Station,
Thoothukudi District.
In Crime No.412 of 2021.

... Respondent/Complainant

For Petitioner : Mr.G.Prabh Rajadurai,
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.412 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent Police, for the offence punishable under Sections 448 and 353 IPC and Section 4A(1b) of Tamilnadu Open Places (Prevention of Disfigurement), Act 1959, in Crime No.412 of 2021, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that the first petitioner is a licensee to collect rents from the vendors in a market run by the Corporation. The Corporation proposed to reconstruct the market under the Smart City Scheme. In view of the interim order passed by this Court in the writ petition filed by the petitioner, the Commissioner allotted the shopkeepers space near Fisheries College temporarily and time was granted to the shopkeepers to vacate the shops. After the time granted to vacate the shops was over, the Government Officials started to demolish the market premises with the help of the police on 13.05.2021. In view of the interim order obtained by the first petitioner, the work was stopped. However, on 26.05.2021, a flex board was put up in the said market premises by the petitioner by posting defamatory statements against the Government Officials. Hence, the complaint.



3. The learned counsel for the petitioners submits that the petitioner is a licensee to collect rents from the vendors in a market run by the Corporation. The second petitioner is a reporter in a local TV channel. He further submits that the petitioners had not put up any flex board as alleged by the prosecution and the flex board was put by the vendors only. He further submits that the first petitioner filed a writ petition before this Court and obtained an interim order against the demolition. Despite the interim order, the market was demolished and the contempt petition against the Commissioner is pending. The second petitioner took video coverage of the illegal demolition. In fact, there is no defamatory statement in the flex board and it was only the feelings of the vendors, who were deprived of their livelihood in spite of the protection given by this Court. Therefore, the petitioners have not committed any offence as alleged by the prosecution. Hence, he prayed for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl. Side) submits that the investigation is yet to be completed.

5. Considering the facts and circumstances of the case and the nature of allegations levelled against the parties, this Court is inclined to grant anticipatory bail to the petitioners.

6. Accordingly, the Criminal Original Petition is allowed. 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, Thoothukudi, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

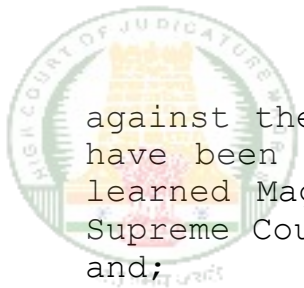
(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the respondent Police as and when required for interrogation;

(c) the petitioners shall not tamper with the 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 or the learned Judicial Court is entitled to take appropriate action



against the petitioners in accordance with law as if the conditions have been imposed and the petitioners are 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 accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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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,
THOOTHUKUDI DISTRICT.
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.
- 3 THE INSPECTOR OF POLICE
THOOTHUKUDI SOUTH POILCE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.G.PRABHU RAJADURAI, Advocate SR.No.7601.

ORDER

IN

CRL OP(MD) No.16472 of 2021

Date :27/10/2021

OGY

PKP/PN/SAR.3/02.11.2021/3P/6C