



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/11/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.18208 of 2021

1.Ishmayil @ Ismail

2.Kathija Umma @ Kathijama

... Petitioners/Accused

Nos.1 & 2

Vs

The State Rep. by
The Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.
(Crime No.262/2021)

... Respondent/Complainant

For Petitioner : Mr.D.S.Haroon Rasheed,
Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.side)

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

PRAYER :-

For Anticipatory Bail in Crime No.262 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused Nos.1 & 2, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 324 and 506(ii) IPC, in Crime No.262/2021 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that there was a property dispute between the first petitioner and the defacto complainant. Due to which, the first petitioner was driven out from the joint family. While so, on 23.10.2021 at about 08.30 p.m., the first and second petitioner assaulted the defacto complainant and abused her in filthy language. Therefore, the present case came to be



registered.

3. The learned counsel for the petitioner submitted that the first and the second petitioners are the sister and brother-in-law of the defacto complainant. He further submitted that the first petitioner is having right over the property and in order to grab the property from the first petitioner, she was driven out from the house. The petitioners are innocents and they have been falsely implicated in this case.

4. This Court by order dated 02.11.2021 dismissed the earlier anticipatory bail filed by the petitioner by considering the nature of allegation levelled against the petitioners and the fact that the victim has sustained grievous injuries.

5. Today, when the matter came up for for hearing the learned Government Advocate (Crl.side) submitted that the injured has been discharged from the hospital.

6.Taking into consideration of the facts and circumstances of the case and the nature of allegation against this petitioner, injured has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand) to the victim through the respondent police, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Tiruchendur.

8. On production of receipt/acknowledgement for having paid the amount to the victim, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Tiruchendur, 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 Judge 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 daily at 10.30 a.m., until further orders.

(c)the petitioners shall not tamper with the evidence or
<https://hseivicesegs.gov.in/hseivices/> 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 accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
22/11/2021

/ TRUE COPY /

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

AM

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

ORDER
IN
CRL OP(MD) No.18208 of 2021
Date : 22/11/2021

SB/PN/SAR-I/24.11.2021/3P/5C