



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.1509 of 2022

1.Hayath Basha
2.Abdul Khiyum

.. Petitioners

Vs.

The State represented by
The Inspector of Police,
P2 - Otteri Police Station,
Otteri, Chennai District.
(Crime No. not known of 2022)

...Respondent/complainant

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on anticipatory Bail in the event of their arrest in Crime number not known of 2022 pending investigation on the file of the respondent police.

For Petitioners : Mr.G.K.Sekar

For Respondent : Mr. A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 142, 143 and 506(ii) of IPC in Crime No. not known of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners illegally acquired possession of property without ownership. Hence, the complaint.

3. The learned counsel appearing for the petitioners submits that the first petitioner is the decree holder and the second petitioner is the son of the first petitioner and he further submitted that the first petitioner is the owner of the property and vacated the premises against one Mohammad by filing R.C.O.P 1758 of 2014 and in E.P 1025 of 2019 before the XIII Small Causes Court, Chennai. Thereafter, the defacto complainant have tortured and threatened the petitioner to settle the property in favour of him. With an intention to grab the property, the defacto complainant lodged a false complaint. He pray for grant of anticipatory bail to the petitioners.



4. The Additional Public Prosecutor admits that the first petitioner is the owner of the property who filed R.C.O.P No1758 of 2014 which is pending before the XIII Court of Small Causes, Chennai. In the meanwhile, EP.No.1025 of 2019 filed by the first petitioner was ordered accordingly the warrant was executed and the vacant possession of the petition premises was over to the petitioner.

5. A perusal of the records it reveals that the petitioner got the order in favour of him, for which, he enclosed the copy of the order.

5. Considering the facts and circumstances of the case and also considering the submissions made by the both counsel and also the fact that it is civil in nature, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned XVI Metropolitan Magistrate, George Town, Chennai, 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 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 Court concerned 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 an 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 has 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;



[g] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

-sd/-

25/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 XVI METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 XIIICOURT OF SMALL CAUSES,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
P2-OTTERI POLICE STATION,
OTTERI, CHENNAI DISTRICT

CC to M/S. G.K.SEKAR Advocate on payment of necessary charges
Sr.1122

CRL OP.1509/2022

Date :25/01/2022

RVR 08/02/2022