



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the Twenty Third day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.13936 of 2022

1 K.M.S.SAMSUDDIN
2 A.SAEHAKATHULLAH
3 M.BASHEER

[PETITIONERS / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
H3, MARAIMALAI NAGAR POLICE STATION,
CHENGALPATTU
CRIME NO.295 OF 2022

For Petitioner : M/S.B.KANNAN Advocate

For Respondent : MR.A.DAMODARAN, ADDITIONAL PUBLIC PROSECUTOR

For Intervenor : M/S J.SARAVANA VEL Advocate

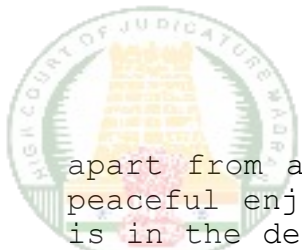
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/A1, A2 & A5 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 448, 294(b) and 506(ii) of IPC and Section 3(1) of TN Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No.295 of 2022, seek anticipatory bail.

2. Heard, the learned counsel appearing for the petitioners, learned counsel appearing for the de-facto complainant/intervenor and the learned Additional Public Prosecutor appearing for the respondent.

3. On 27.05.2022 at about 12 noon several men mobilised by A1, A2 and A5 along with one Ranjith, President of Manapakkam Panchayat, Chengalpet District and one Nagaraj with JCB machines came to the de-facto complainant's and other adjacent properties, which was allotted and purchased from the CMDA and started clearing the fencing and the lands. A factory manufacturing industrial valves employing more than 50 workers is functioning in the de-facto complainant's premises



apart from a petrol bunk etc in the other properties. The right of peaceful enjoyment of the property as a bonafide purchaser and which is in the de-facto complainant's possession for the past 16 years was disturbed illegally. The CMDA has developed the lands and allotted the commercial plot C1/2 to Smart Business Solutions by Order dated 03.02.2006 and the possession was handed over on 16.02.2006. The CMDA by letter dated 16.02.2006 to Smart Business Solutions Private Limited confirmed the allotment and also informed that the allotted lands was acquired by CMDA in the year 1977 - 1978. The de-facto complainant has put up fencing and has been in possession since then till date. A Memorandum of Lease cum Sale Agreement was entered on 23.06.2006 with the Senior Estate Officer, CMDA. A sale deed in Doc.No. 8391 of 2011 dated 28.10.2011 was executed by the CMDA represented by M.Mohan, Senior Estate Officer in favour of M/s. Smart Business Solutions Private Limited. Subsequently electricity connections and property tax assessments were taken in the name of Smart Business Private Solutions Limited for the constructions made in the above said lands at a huge cost. All this clearly shows that the company has been in absolute possession and enjoyment of the property since 2006 till date.

4. While being so, on the date of occurrence, 1st petitioner/A1 engaged JCB and caused damage to the compound wall of the petrol bunk run by the de-facto complainant/intervenor. On perusal of all documents, it shows that the de-facto complainant is holding the subject land. However, the petitioners are also claiming the subject property by the sale deed dated 11.02.1983 and there was a civil dispute between them. That apart, the case of the petitioners is that a part of the land is in possession the petitioners since remaining property had been already secured by the CMDA.

5. According to the case of the prosecution, the petitioners damaged the compound wall worth about Rs.50,000/-.

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

7. Accordingly, the petitioners are directed to jointly deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.295 of 2022, within a period of four weeks from the date on which the order copy is made ready, and also to file an undertaking affidavit before concerned learned Magistrate undertaking not to interfere with the peaceful possession and enjoyment of the property of the de-facto complainant in any future, on such deposit and undertaking, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned II Judicial Magistrate, Chengalpattu on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

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[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 jointly deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of Crime No.295 of 2022, before the concerned Magistrate, within a period of four weeks from the date on which the order copy is made ready and also to also to file an undertaking affidavit before concerned learned Magistrate undertaking not to interfere with the peaceful possession and enjoyment of the property of the de-facto complainant in future.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at conclusion of trial.

[d] the petitioners shall appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioners shall not abscond either during investigation or trial.

[g] 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].

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

-sd/-

23/06/2022

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

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



TO

1 THE JUDICIAL MAGISTRATE,
NO.II, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
H3, MARAIMALAI NAGAR POLICE STATION,
CHENGALPATTU

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.B.KANNAN Advocate on payment of necessary charges
Sr.9793

CC to M/S.J.SARAVANA VEL Advocate on payment of necessary
charges Sr.9853

CRL OP.13936/2022

Date :23/06/2022

RVR 29/06/2022