



Crl.O.P.No.23945 of 2022

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WEB CO **A.D.JAGADISH CHANDIRA, J.**

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 448, 294(b), 323, 324 and 506(ii) IPC in Crime No.534 of 2022, seeks anticipatory bail.

2. The case of the prosecution, as per the defacto complainant, is that she had constructed four shops and let it for rent and that in three shops, there were other tenants. One Vikraman, who is the president of the Arumanthai Panjayat was a tenant in one of the shops and he had not paid rent for the premises and electricity consumption charges for about two years. While that being so, five months ago, the mother of the said Vikraman had vacated the said shop and taken back Rs.20,000/- paid as advance. When the defacto complainant had asked for the electricity consumption charges, it was assured to be cleared. Thereafter, the defacto complainant had handed over the shop to one Shankar on 07.07.2022 and had received an advance of Rs.20,000/- on the same day. While the said Shankar was cleaning the shop, the accused had come in a four wheeler bearing Reg. No.TN-06-L-4347 and abused the said Shankar and



threatened him and also assaulted him with his car key on his cheek and mouth, due to which, he sustained bleeding injuries and two other persons, who accompanied Vikraman had also assaulted the said shankar. On hearing the alarm, the defacto complainant had gone to the place and the accused had abused her and also intimidated her and then they had gone away from the scene of occurrence. Thereafter, the defacto complainant took the said Shankar to Meenjur Government hospital, where he was given treatment. Thereafter, the defacto complainant had preferred the complaint on 11.07.2022, based on which, enquiry was conducted in C.S.R.No.947 of 2022. Later, on 12.07.2022, a case was registered in Cr.No.534 of 2022 for the offence under Sections 448, 294(b), 323, 324 and 506(ii) IPC. Hence, the case.

3. Learned counsel for the petitioner would submit that the petitioner belongs to the Scheduled Caste community and he was elected as the President of the Arumanthai Panchayat, Poneri Taluk. Since persons belonging to the upper cast community, who were defeated in the election were antagonised with the petitioner, they were bound to see that the petitioner was removed from the post of President of the Panchayat. He would submit that the defacto complainant had encroached the land in



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a water body in Survey No.121 to an extent of 1.42.0 Acres belonging to the Panchayat and had constructed four shops. Therefore, the Revenue Inspector of Niayaru Kuruvatam Revenue Village had issued a notice under Section 7 of Tamil Nadu Land Encroachment Act, 1905. Subsequently, a notice was also pasted on the shop of the defacto complainant. Since the defacto complainant did not respond to the earlier notice, yet another notice was also pasted on the shop of the petitioner on 20.06.2022 by the jurisdictional Tahsildar. Further, the local Panchayat has also passed a resolution dated 11.08.2022 to remove the encroachment and put up a name board to show that the property belongs to the government. The defacto complainant being the encroacher, thinking that the petitioner was behind the actions taken by the Revenue Officials joined hands with the persons, who were against the petitioner and had given a false complaint as if the petitioner had attacked the said Shankar on 11.08.2022. However, the fact remains that the shops have been closed already pursuant to the action taken by the Authorities and in such circumstances there is no possibility of the defacto complainant to let the shop on lease to Shankar.



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4. The learned counsel would also submit that even as per the complaint given by the defacto complainant, one Shankar is stated to have been injured, however, no statement seems to have been recorded from him till date. The earlier Inspector, who belongs to the community of the defacto complainant, was also taking every endeavour to see that the petitioner was removed from the post of President of the Panchayat. After registration of the case, to keep the petitioner under dark, the respondent police did not upload the F.I.R in the internet. Even despite various directions issued by the superior courts, the respondent wilfully failed to produce the F.I.R before the Court concerned and failed to upload it in the web. Immediately, the petitioner had filed a copy application on 09.09.2022 before the learned Judicial Magistrate No.II, Ponneri, seeking for copy of the F.I.R and the same was returned by the learned Magistrate on 20.09.2022, stating that the F.I.R has not been received by the Court concerned. Thereafter, the petitioner filed Crl.O.P.No.24040 of 2022, seeking for direction to the respondent police to produce the copy of the F.I.R in Cr.No.534 of 2022 before the learned Magistrate and the matter was adjourned to 12.10.2022. Strangely, the respondent police have produced the F.I.R before the Court only on 10.10.2022. This would clearly show the *mala fide* attitude of the respondent police to keep the



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petitioner under dark. Further, the intention of the respondent police and the defacto complainant was to see to that the petitioner does not attend the Grama Panchayat, which was scheduled to be held on 02.10.2022, so that the petitioner would be disqualified. However, due to the intervention of this Court, the petitioner was permitted to appear before the Grama Panchayat meeting on 02.10.2022. He would further submit that it is the habit of the respondent police to register cases against the petitioner and keep the petitioner under dark and they have been repeatedly taking endeavours to arrest the petitioner. The learned counsel would further submit that though this Court had earlier dismissed the anticipatory bail application of the petitioner, stating that previous cases are pending against him, these facts were not brought to the knowledge of this Court at the time of earlier hearing. He would further submit that the petitioner is a respectable citizen, who has been elected by the local villagers and he is not a criminal. Only due to political and communal equations, the earlier Inspector who was hand in glove with the defacto complainant's party, had repeatedly registered cases against him. Contending as such, he prays for grant of anticipatory bail to the petitioner.

5. Learned Government Advocate (Crl.Side) appearing for the



respondent would submit that this is the second anticipatory bail petition and the earlier petition was dismissed by this Court on the ground that there were four cases pending against him. The petitioner is a habitual offender, and thereby he opposed for grant of anticipatory bail to the petitioner. He would further submit that there is only a small delay in sending the F.I.R to the Court.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record, including the CD File.

7. It is the case of the prosecution that one Shankar was assaulted and it is the case of the defacto complainant that she had sent the injured Shankar to Meenjur Government hospital. But strangely, no statement has been recorded from the said Shankar so far and there is no medical report pertaining to injuries said to be sustained by the said Shankar. Further, though the case is said to be registered on 12.07.2022, the F.I.R has been sent to the Court only on 10.10.2022 after the petitioner filed Crl.O.P.No.24040 of 2022. In such circumstances, this Court, prima facie, infers that the case has been purposefully foisted



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against the petitioner to keep him in dark and get him arrested at any time before 02.10.2022 to prevent him in appearing in the Grama Sabha meeting. This Court is of the opinion that the petitioner had made out a case for grant of anticipatory bail.

8. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate-II, Ponneri on condition that the petitioner shall execute a 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:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may

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obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police as and when required for interrogation on issuance of summons.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

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

27.10.2022

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