



Crl.O.P.No.27931 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 447, 341, 294(b), 506(i) and 427 of IPC in Crime No.239 of 2022, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant Santhanam who is the Manager, Mayilam Pommapura Aathinam, Kuyilampalayam is that the lands in Survey Nos.128/4, 130/18, 131/19, 138/1, 140-7, 143/1, 96/9 and 96/11 belong to the Mutt. Since the accused had encroached upon it and caused damage to the properties, the petitioners have filed a petition before the HR&CE Department and that an order was passed to remove the encroachments and execution proceedings were also taken and it is also fenced. The further allegation is that the accused have once again removed the fence and trespassed into the properties, abused the defacto complainant and other staff of the Mutt and also threatened them. Hence the case.



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3. The learned counsel for the petitioners would submit that the petitioners are Villagers of the Kuyilampalayam Village and they are having adjacent lands to the properties belonging to the Mutt and they have not done any offences as alleged and a false complaint has been given against them to prevent them from entering into the lands. He would submit that the petitioners to show their bonafides have filed necessary affidavits before this Court stating that they will not interfere with the possession of the lands belonging to the Mutt in Survey Nos.128/4, 130/18, 131/19, 138/1, 140-7, 143/1, 96/9 and 96/11. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor for the respondent Police would submit that the petitioners who are the Villagers in Kuyilampalayam Village trespassed into the lands belonging to the Mutt, despite the order being passed by the Appropriate Authority. He would further submit that they have also threatened the defacto complainant and other staff of the Mutt. Hence, he opposed for grant of anticipatory bail to the petitioners.



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5.The learned counsel for the intervenor/defacto complainant would submit that the lands belonging to the Mutt were encroached by the petitioners and the other Villagers. The defacto complainant had filed an application before the HR&EC Department and necessary orders have also been passed to remove the encroachments, pursuant to which, the defacto complainant also recovered the possession of the properties by fixing a fench around the area and once again, the accused have illegally trespassed into the properties by damaging the fence. When it was questioned by the defacto complainant and other staff of the Mutt, the petitioners have criminally intimidated them and also attempted to assault them. Hence, he vehemently opposed for granting anticipatory bail to the petitioners.

6.Heard the learned counsel and perused the entire materials available on record including the First Information Report.

7.Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the



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undertaking filed by the petitioners by way of an affidavit before this court, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Vaanur, on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 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.



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[b] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for 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 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]**;

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

9.This Criminal Original Petition is ordered and the affidavit of



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undertaking filed by the petitioner shall form part of the Court records.

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