



CRL.O.P.No.30110 of 2022

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WEB COPY **G.K.ILANTHIRAIYAN, J.**

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 447 & 506(1) of IPC and Section 3(1) of Tamil Nadu Public Property Prevention of Damages and Loss Act, 1992, in Crime No.552 of 2022, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that on 27.09.2022, the petitioners trespassed into the property belonged to the defacto complainant and it is alleged that they completely damaged the part of the house and fencing put up by the defacto complainant by using JCB which worth about more than Rs.10,00,000/-. Hence the defacto complainant lodged complaint on 28.09.2022 and he was issued C.S.R.No.820 of 2022. After enquiry the respondent registered the FIR on 16.11.2022 in Crime No.552 of 2022 for the above said offences. Hence, the petitioners apprehend arrest at the hands of the respondent.



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3. The learned counsel appearing for the petitioners submitted that the petitioners owned property comprised in old survey No.286/1, new survey No.286/58B6 ad measuring 0.90 acre under patta No.6365 in their favour. They are also owned property comprised in old survey No.286/1 part, new survey No.286/58B7 ad measuring 0.88 acre under patta No.6366, situated at Morai Village, Avadi Taluk, Thiruvallur District. The defacto complainant is the adjacent land owner and there was a dispute in respect of boundaries between them. Therefore, the petitioners were constrained to file a suit in O.S.No.251 of 2022 on the file of the District Munsif Court, Ambattur, for injunction in respect of the property. The defacto complainant also filed suit in O.S.No.259 of 2022 on the file of the District Munsif Court, Ambattur, in respect of their property. Therefore, no such occurrence was taken place and the defacto complainant lodged false complaint. He further submitted that the petitioners are ready and willing to deposit reasonable amount as fixed by this Court. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there was a boundary dispute between the petitioners and the defacto complainant and therefore, the petitioners entered



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into the subject land belonged to the defacto complainant and completely damaged the entire fencing worth about more than Rs.10,00,000/- and also threatened the defacto complainant with dire consequences. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. It is seen that admittedly both the defacto complainant and the petitioners have filed suits in respect of their properties for injunction on the file of the District Munsif Court, Ambattur and both the suits are pending. Pending the suit, the petitioners trespassed into the property belonged to the defacto complainant and allegedly damaged the fencing by using JCB to the tune of more than rupees ten lakhs. Considering submission made by the learned counsel appearing for the petitioners and also considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, each of the petitioners is directed to deposit a sum of Rs.2,50,000/- (Rupees two laksh fifty thousand only), to the credit of Crime No.552 of 2022, within a period of fifteen days from the date on which the order copy made ready, and on such deposit the petitioners are ordered to be



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released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Ambattur, 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:

[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] each of the petitioners shall deposit a sum of Rs.2,50,000/- (Rupees two lakhs fifty thousand only) to the credit of Crime No.552 of 2022, before the concerned Magistrate, within a period of fifteen days from the date on which the order copy made ready.

[c] the final order in respect of the said deposits 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.



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[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.

02.12.2022

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