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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/02/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL OP(MD). No.2303 of 2022

G.Raja ... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Kalaiyarkoil Police Station,
Sivagangai District.
(Crime No.4 of 2022). ... 1st Respondent/Complainant

For Petitioner : M/s.Prabhu Rajadurai G,
Advocate.
For Respondent : Mr.S.Manikandan,
Government Advocate (Crl.Side)

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

PRAYER :-
For Anticipatory Bail in Crime No.4 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 447, 353 and 506(i) of IPC, in Crime No.4 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner encroached the Sarkar Puramboke land and constructed a house in that place and also put up the fence around the house. Further, he obtained house site assignments illegally for himself and his relatives. As per the order of this Court in WP(MD)No.9694 of 2020, the above said assignments were cancelled and the revenue records were corrected as Sarkar Puramboke and the fence put up by the petitioner, also removed by the police in the presence of the Block Development Officer and the Tahsildar as per the notice dated 31.12.2021 issued under Section 7 & 6 of Tamil Nadu Land Encroachment Act, 1905. Due to the above said issue, he was suspended form his service. Thereafter, on 05.01.2022, based on the secrete information, the

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Village Administrative Officer went to the place of occurrence. There, the petitioner again putting up the fence. When the same was questioning by him, he threatened him and prevented him from discharging his duty. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. He further submitted that the disputed land is a Natham Poromboke land and was under possession of various persons. The petitioner's paternal grandfather namely, Karuppiah constructed a house and got a electricity connection in the year 1962. Later, the same undergone subdivision into 15 divisions and S.No.197/13 was also given to the above said Karuppiah. He was expired on 26.10.1998. After his demise, the petitioner's father namely, Gandhi was in possession of the property. After his demise on 28.12.2002, the petitioner's mother considering the dilapidated condition of the house, reconstructed the same and living along with the petitioner and his family. She also expired in the year 2014. From that, the petitioner was in possession and enjoyment of the property and electricity bills and the property tax are also stands in the name of the petitioner's deceased mother.

4.He further submitted that the petitioner moved W.P.(MD) No.9694 of 2020 before this court and on the basis of the order dated 23.12.2020, the assignments were cancelled. Thereafter, the petitioner and his sister filed a suit before the learned District Munsif Court, Sivagangai, seeking relief of injunction and the same is pending. Further, he made his objection under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, and filed WP(MD)No.10775 of 2021 and the same was allowed on 30.06.2021 by remanding back the matter to consider the petitioner's objection and to afford an opportunity of personal hearing and to pass order in accordance with law. As per the order dated 15.12.2021, passed by the Tahsildar, Kalayairkoil, the fence was removed on 31.12.2021. In this regard, the petitioner made an appeal before the District Collector, Sivagangai, and the same is pending. Pendency of the above said proceedings, the present case has been registered as if, the petitioner trespassed into the property and prevented the public servants from discharging their duty.

5.The learned Government Advocate (Crl. Side) for the respondent police submitted that on the basis of the complaint, a case has been registered on the ground that the petitioner trespassed into the property and prevented the public servants from discharging their duty against the order passed by this Court in WP (MD)No.9694 of 2020, which was filed for eviction for unauthorisied occupation of land.

6.According to the learned counsel for the petitioner, with regard to the issue, several proceedings are pending. During the pendency of the above said proceedings, present complaint came to be

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filed on the ground that the petitioner alleged to have trespassed into the property and also removing the stone pillar.

7.But, however, the learned Government Advocate (Crl.Side) submitted that previous case of abused the officials in filthy language is pending against this petitioner and 292(b) & 323 of IPC is also pending against him and submitted that the dispute between the neighbours.

8.Considering the facts and circumstances of the case and also considering the fact that the dispute is with regard to eviction proceedings, this Court is inclined to grant anticipatory bail to the petitioner.

9.Accordingly, this Criminal Original Petition is allowed and petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Principal Sessions Court, Sivagangai, 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 learned Magistrate concerned and the petitioner shall appear before the respondent police daily at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

10.The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
04/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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TO

1. The Principal Sessions Judge,
   Sivagangai.

2. The Inspector of Police,
   Kalaiyarkoil Police Station,
   Sivagangai District.

3. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-784[I] dated 04/02/2022)

ORDER
IN
CRL OP(MD) No.2303 of 2022
Date :04/02/2022

RS/MS/SAR.4(10.02.2022) 4P-5C

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