



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.2985 and 3130 of 2022

Sankar

... Petitioner/Accused No.3
in Crl.O.P.(MD)No.2985 of 2022

Vijayendran

... Petitioner/Accused No.1
in Crl.O.P.(MD)No.3130 of 2022

Vs

State Rep.by
The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.
(Crime No.104/2022).

... Respondent/Complainant
in both petitions

For Petitioner (in Crl.O.P.(MD)No.2985 of 2022)
: M/s.Dhilipan Pandian R.L.,
Advocate.

For Petitioner (in Crl.O.P.(MD)No.3130 of 2022)
: Mr.K.Veilmuthu,
Advocate.

For Respondent (in both petitions)
: Mr.R.Sivakumar,
Government Advocate (Crl.Side)

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

COMMON PRAYER :-

For Anticipatory bail in Crime No.104/2022 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1 and A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, in Crime No.104 of 2022, seek anticipatory bail.



2.The case of the prosecution is that the petitioners and other accused had encroached the temple lands situated in S.Nos.152/1 and 152/2 of an extent of 1.87 acres and that without permission, the petitioners are taking red sand and put up a brick klin there. Hence, the complaint.

WEB COPY

3.The learned Government Advocate (Crl. side) would submit that the land in dispute is owned by Arulmigu Pasupathiswara Swamy Temple at Panthanallur, that the 150 acres of lands owned by the temple had been leased out to the Tamil Nadu Agricultural Society, that subsequently, the society was dissolved, that the petitioners had encroached the temple lands and that they had constructed a house therein and cultivating teak wood and coconut trees, apart from putting up a brick klin.

4.The learned counsel for the petitioners would submit that the petitioners have been in possession and enjoyment of the property for more than 20 years and that they have constructed a house therein and also brick klin.

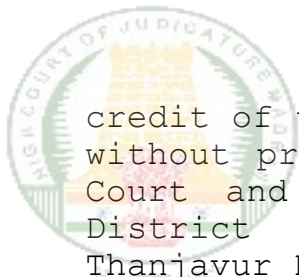
5.The learned Government Advocate (Crl. side) would further submit that after surveying the lands only, they came to know that the land, in which the brick klin was put up belongs to the temple and that therefore, the Executive Officer of the temple has lodged the present complaint. He would further submit that the petitioners are in illegal possession of the property and as such they are not entitled to get the relief of anticipatory bail.

6.The learned Government Advocate (Crl. side) would further submit that the first petitioner is having two previous cases, out of which, one case for similar offence and the second petitioner is not having any previous case.

7.At this juncture, the learned counsel for the petitioners would submit that the Executive Officer has been receiving taxes from the petitioners continuously and even for the present year, he has received tax and issued receipts therefor. The petitioners have also produced the copy of the receipts issued by the de-facto complainant.

8.Considering the above facts and circumstances and also taking note of the admission made by the de-facto complainant, that the petitioners have constructed a house and brick klin in the property in dispute and also the fact that the de-facto complainant has been receiving taxes from the petitioners and that the custodial interrogation is not necessary, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9.Accordingly, the first petitioner/A3 shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) and second petitioner/A1 shall pay a sum of Rs.5,000/- (Rupees Five Thousand Only) to the



credit of the District Mineral Foundation Trust, Thanjavur District, without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned District Munsif-cum-Judicial Magistrate, Thiruvidaimaruthur, Thanjavur District.

WEB COPY

10. On production of such receipt/acknowledgment, 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 of receipt of a copy of this order, before the learned District Munsif-cum-Judicial Magistrate, Thiruvidaimaruthur, Thanjavur District, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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) the petitioners shall report before the respondent police daily at 10.30 am for a period of one month 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 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]***; and;

(f) if the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

02/03/2022

/ TRUE COPY /

/ /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.



TO

1.The District Munsif-cum-Judicial Magistrate,
Thiruvidaimaruthur, Thanjavur District.

2.Do-Through The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

3.The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.

4.The Officer Incharge,
District Mineral Foundation Trust,
Thanjavur District.

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

+1 CC to Mr.K.Veilmuthu, Advocate (SR.No.1653)

ORDER IN

CRL OP(MD) . Nos.2985 and 3130 of 2022

Date :02/03/2022

RS/SBN/SAR.4 (17.03.2022) 4P-7C