



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.4261 of 2022

1. Eluchamy @ Elumalaiyan
2. Sundari @ Rajasundarai ... Petitioners/Accused Nos.5 & 6

Vs

The State rep.by,
The Inspector of Police,
Vikkiramangalam Police Station,
Madurai District.
(Crime No.130/2021)

... Respondent/Complainant

For Petitioner : MR.R.Gandhi,
Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

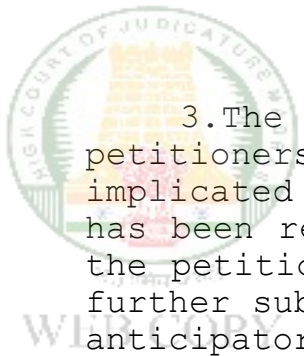
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory Bail in Crime No. 130 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 147, 294(b), 323, 379 and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, in Crime No.130 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that there was a property dispute between the petitioners and the defacto complainant. While so, on 21.10.2021 at about 04.00 p.m., when the defacto complainant questioned the petitioner regarding the ploughing of the agricultural land, the petitioners abused the defacto complainant in filthy language and also attacked him. Therefore, the present case came to be registered.



3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that a counter case has been registered against the defacto complainant and others, and the petitioners and the defacto complainant are close relatives. He further submitted that the petitioners have filed an application for anticipatory bail before this Court in Crl.O.P(MD).No.16569 of 2021 and the same was allowed on 28.10.2021. But, they have not executed the sureties. Thereafter, they moved extension of time petition before this Court in Crl.M.P(MD).No.9989 of 2021 and the same was allowed on 22.11.2021. However, since the second petitioner, who is the wife of the first petitioner, was pregnant during the relevant point of time, they were not in a position to furnish the surety as directed by this Court. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate(Crl.side) appearing for the respondent police submitted that the injured person has been discharged from the hospital. He further submitted that this Court has already granted anticipatory bail to the petitioners on 28.10.2021, but they have not executed the sureties

5.It appears that the petitioners were already granted anticipatory bail by this Court on 28.10.2021. However, they could not execute the sureties, since the second petitioner, who is the wife of the first petitioner, is pregnant during the relevant point of time. Hence, considering the facts and circumstances of the case, the nature of allegations against the petitioners and also the fact that injured person has been discharged from the hospital and that the petitioners have already been granted anticipatory bail by this Court, this Court is inclined to grant anticipatory bail to the petitioners.

6.Accordingly, this criminal original petition is allowed and 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 Judicial Magistrate Court No.II, Usilampatti, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum to the satisfaction of the learned Magistrate concerned within a period of 10 days from the date of receipt of a copy of this order 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 Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners shall report before respondent police as and when required for interrogation.



[c]the petitioners shall not tamper with the 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 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 229-A IPC.

sd/-
17/03/2022

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,
USILAMPATTI.

2 THE CHIEF JUDICIAL MAGISTRATE
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
VIKKIRAMANGALAM POLICE STATION,MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to MR.R.GANDHI, Advocate (SR-2278[I] dated 21/03/2022)

ORDER
IN
CRL OP(MD) No.4261 of 2022
Date :17/03/2022

ssb
MK/PN/SAR.I/23.03.2022/3P/5C