



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 24/03/2022
Delivered on : 01/04/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD). No.5011 of 2022

1. Latcham @ Laxshmi
2. Rebello
3. Rajesh Pandi
4. Pandiyarajan
5. Rishi Pandian

... Petitioners/Accused Rank not known

Vs

The State represented by
The Inspector of Police,
E-5, Mattuthavani Police Station,
Madurai District.
(Crime No. 153 of 2022).

... Respondent/Complainant

Chellapandi Poosari

... Petitioner/Intervenor
IN CRL MP(MD) No.3939 of 2022

For Petitioners : Mrs.J.Anandhavalli,
for Mr.M.Vinoth, Advocate.

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

For Intervenor : Mr.C.M.Arumugam, Advocate

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

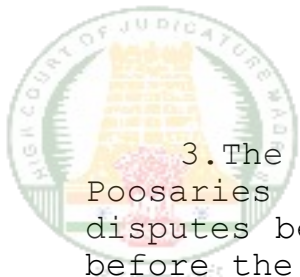
PRAYER :-

For Anticipatory Bail in Crime No. 153 of 2022 on the file of
the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections 380
IPC, in Crime No.152 of 2022, seek anticipatory bail.

2.The case of the prosecution is that on 12.01.2022, at about
11.00 am, the petitioners had entered into the Trust Office and
broke open the hundials and taken away the amount of Rs.3 Lakhs of
Arulmigu Pandi Muneeswarar Temple situated at Melamadai Village,

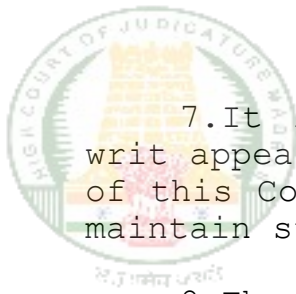


3.The petitioners' case is that they are the trustees cum Poosaries of Arulmigu Pandi Muneeswarar Temple, that there existed disputes between the trustees and number of litigations are pending before the Civil Court as well as before this Court, that due to the said vengeance, the defacto complainant has lodged the above complaint, falsely implicating the petitioners.

4.The facts not in dispute are that Arulmigu Pandi Muneeswarar Temple, was originally administrated by Smt.Valliammal, that after the lifetime of the said Valliammal, the right of administration of Poojariship devolves upon her legal heirs, namely, Bothai Poosari @ Pandiayan and Periyannan @ Mahamuni Poosari and as per the decree passed in O.S.No.383 of 1973 on the file of the District Munsif of Madurai Town, the period of poosariship was equally divided, that the Periyannan @ Mahamuni Poosari had five wives, that second wife Saroja Ammal had no issues, that the petitioners belong to the first wife's branch, whereas, the intervenor belongs to the third wife's branch and that the said Periyannan had executed a registered Will, dated 16.08.1985, wherein, it has been stated that the second wife Saroja Ammal is entitled to look after her Pooja turn till her life time and thereafter, her turn will be performed by other four branches in rotation.

5.It is also not in dispute that subsequently some suits were filed between the said branches and the some were disposed of and some are pending. It is also not in dispute that the Joint Commissioner of HR & CE Department, Madurai ordered for appointment of daily wage Poojari for the turn of second wife Saroja Ammal, which was followed by another order dated 30.04.2012, appointing the second petitioner Rebello as daily wage Poosari and that the said order has been challenged by filing writ petition before this Court.

6.It is also not in dispute that the Joint Commissioner of HR & CE Department on the recommendation of the then Fit Person of the said temple, passed another order, dated 06.03.2017, fixing Rs.500/- as daily wage for the second petitioner to look after his Pooja turn of the said Saroja Ammal and that the said order was also challenged by the said Rebello in W.P.(MD)No.4229 of 2017 and the same was dismissed. Thereafter, the Joint Commissioner has passed another order, dated 02.12.2020, declaring the said Rebello having exclusive right to look after the Pooja turn of Saroja Ammal and receive all plate collection and attached perquisites, excluding all other branches, that the said order was challenged by fourth and fifth wives' branch Poosaries by filing writ petitions in W.P.(MD) Nos.18940 and 18947 of 2020 and the learned Judge of this Court, vide order, daed 29.01.2021, has sustained the impugned order to the extent it cancels the earlier order dated 30.04.2012 and 06.03.2017 and set aside the remaining part of the impugned order.



7.It is also not in dispute that the said Rebello has filed writ appeals in W.A(MD)No.590 and 591 of 2021 and the Division Bench of this Court, vide order dated 16.03.2021, directed the parties to maintain status-quo as on that date.

8.The learned counsel appearing for the petitioners would submit that as per interim orders of the Division Bench of this Court, the second petitioner was doing Poojas and also authorised the fourth petitioner to do Poojas during his turn, that since there were objections for taking the plate collections, the said money was kept in a vessel and after getting legal opinion from the Government Pleader and authorization by the Trust Board, the money collected during the pooja turn between 17.12.2012 and 23.12.2021 was taken by the second petitioner on 12.01.2021 and that this has been complained of by the defacto complainant, as if the second petitioner has committed theft and other petitioners have supported the second petitioner.

9.The learned Counsel for the Intervenor would submit that the petitioners, after switching off the CCTV cameras, had trespassed into the Office and broke open the Hundials and taken away Rs.3 lakhs, that the CCTV Cameras available in the temple premises would disclose the commission of offence by the petitioners, that the money looted by the petitioners is liable to be recovered from them and that the custodial interrogation is absolutely necessary.

10.As rightly pointed out by the learned counsel for the petitioners, the Division Bench of this Court by observing that since the second petitioner has been acting as Poosari and enjoying the rights till the orders passed by the learned Single Judge, they were inclined to direct the parties to maintain status-quo as on that date. The learned counsel would submit that the Government Pleader has also given his opinion to the hereditary trustee that the second petitioner is entitled to act as Poosari in the turn of Saroja Ammal as it was existing during the prior arrangements and that the said arrangements shall be continued till the final outcome of the writ appeals and that therefore, the defacto complainant aggrieved by the orders of this Court as well as the consequent decision of the Trust Board, has falsely lodged the above complaint.

11.The learned Counsel would further submit that it is not the money of the defacto complainant that was alleged to have been stolen and the same was the plate collections during the turn of the second petitioner.

12.It is pertinent to mention that the petitioners have themselves admitted that the second petitioner has taken the money as the same was the plate collections during the turn of the second petitioner. But according to the defacto complainant, the said money was their plate collections, during their turn. Considering the above, as rightly contended by the learned Government Advocate



13. Considering the above facts and also the facts that there existed civil disputes and previous enmity between the parties and also the interim orders granted by the Division Bench of this Court, directing the parties to maintain status-quo and also taking note of the fact that the second petitioner has acted as poosari during his turn for the period between 17.12.2012 and 23.12.2021, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

14. Accordingly, the second petitioner is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) before the learned Judicial Magistrate No.VI, Madurai, to the credit of Crime No.153 of 2022 without prejudice to his rights and contentions within a period of two weeks from the date of receipt of a copy of this order;

15. On such deposit, the petitioners are ordered to be released on bail in the event of arrest or their appearance before the learned Judicial Magistrate No.VI, Madurai 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 absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

01/04/2022

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



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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 JUDICIAL MAGISTRATE NO.VI
MADURAI

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
E-5, MATTUTHAVANI POLICE STATION,
MADURAI DISTRICT

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

+5. CC to M/S.VINOTH.M. Advocate SR.No.2923

+1. CC to Mr.C.M.ARUMUGAM, Advocate SR.No.2965

ORDER

IN

CRL OP(MD) No.5011 of 2022

Date :01/04/2022

SS/SVR/SAR:II/12.04.2022 : 5P/11C