



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.11316 of 2022

1. Venugopal,
2. Venkatraman,
3. Hariharan,
4. Parimala,
5. Raja,
6. Jegan,
7. Manojkumar, ... Petitioners/Accused Nos. 1 to 7

Vs

State Rep.by
The Inspector of Police,
Swamimalai Police Station,
Thanjavur District
(Crime No. 385 of 2022). ... Respondent/Complainant

For Petitioners: Mr.K.S.Durai Pandian, Advocate.

For Respondent : M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)

For Intervenor : Mr.C.Ezhilarasu, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No. 385 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused No.1 to 7, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sec.438 of Cr.P.C



under Sections 147, 148, 294(b), 448, 427, 379, 506(ii) of Cr.P.C. in Crime No.385 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 12.06.2022 at about 1.00 p.m. the petitioners said to have illegally trespassed the defacto complainant's place and demolished his house roof and taken away the articles from his house. They also criminally intimidated the defacto complainant. Hence, the present complaint.

3.The learned counsel for the petitioner submitted that the petitioners are innocent and they are nothing to do with any of the offence as alleged by the prosecution in the complaint. The petitioners and the defacto complainant are brothers and there is a civil suit pending between the parties in respect of the above said property, in O.S.No.113 of 2022, before the Principal District Munsif Court, Kumbakonam, which was filed by the first petitioner. Therefore, in order to retaliate, the present complaint has been lodged by the defacto complainant. The learned counsel would further submitted that the fourth petitioner is a polio attacked person, he cannot move. He cannot assault anybody.

4.The learned Government Advocate (Crl. Side) would submit that totally 7 accused in this case. A7 was already arrested and released on bail. After the confessions statement of A7, the case was altered. The defacto complainant and the accused persons are brothers and there is a civil suit is pending between them. On the date of occurrence, the accused persons said to have entered into the defacto complainant's house and taken away the articles. The present petition was came before this Court on 03.08.2022. Thereafter, it was adjourned to 29.08.2022. Interim protection was also granted by this Court. On 29.08.2022 at about 09.00 a.m., the A4 abused the defacto complainant in filthy language, for that a complaint was pending in C.S.R.No.399 of 2022 and on 05.09.2022 it was closed. In this case investigation is still pending. Hence, he strongly opposed in grant of anticipatory bail.

5.The learned counsel appearing for the Intervenor would submit that during the alteration of the FIR no notice was issued to the defacto complainant. During the enquiry, the respondent police have obtained the statement with regard to the pendency of the civil suit only from the accused persons and not from the defacto complainant. After the occurrence only the civil suit was filed by the first petitioner as plaintiff. The defacto complainant is the defendant in that suit.

6.Considering the facts and circumstances of this case and the C.S.R.No.399 of 2022 before the respondent police is closed based on the statements given by the parties and civil suit pending between the parties, this Court is inclined to grant anticipatory bail to the petitioners on certain conditions.



7. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Judicial Magistrate No.I, Kumbakonam, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the petitioners shall report before the Inspector of Police, Thirumanoor Police Station, daily at 10:30 am until further orders;

(c) the petitioners shall not tamper with the evidence or witness either during investigation or trial;

(d) the petitioners shall be present before the Court on hearing dates and before the respondent police as and when required;

(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 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]; and;

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

sd/-

12/10/2022

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/10/2022

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 THE JUDICIAL MAGISTRATE NO.I,
KUMBAKONAM.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT @ KUMBAKONAM

3 THE INSPECTOR OF POLICE
SWAMIMALAI POLICE STATION,
THANJAVUR DISTRICT

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

COPY TO
THE INSPECTOR OF POLICE,
THIRUMANOOR POLICE STATION,
THIRUMANOOR.

ORDER
IN
CRL OP(MD) No.11316 of 2022
Date :12/10/2022

PKP/BUC/SAR-2/26.10.2022/4P/6C