



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 20/07/2022

PRESENT

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The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.11697 of 2022

1. Allah Bahouse @ Allah Baksh @ Mohamed Ghouse
2. Jaffar @ Jaffer Nazim
3. Syed Mohamed Husain @ Arif

... Petitioners/Accused Nos.1 to 3

Vs

1. The State Rep. By,
The Inspector of Police,
Fort Police Station,
Trichy City.
Crime.No.880 of 2022.

... Respondent/Complainant

2. Rehan Ghouse Khan

... Petitioner/Defacto Complainant
in Crl.MP(MD) No.8221/2022

For Petitioners : M/s.Haroon Rasheed D S, Advocate

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

For Intervener : Mr.R.Ramees Ajmal Khan, Advocate

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

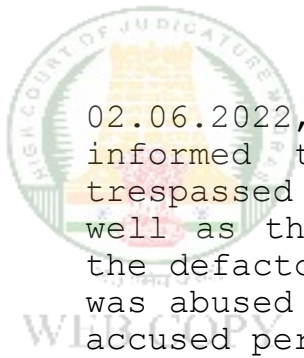
PRAYER :-

For Anticipatory Bail in Crime No. 880 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 448, 427, 506(ii) I.P.C, in Crime No.880 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the property situated in T.S.No.1518 measuring 4500 sq.ft, belongs to the family members and ancestors of the defacto complainant and the same is used as private Burial Ground and compound wall also put up around the land. On



02.06.2022, when the defacto complainant went to Chennai and was informed to him that at about 10.00PM, some unknown persons trespassed into the property, caused damages to the compound wall as well as the statues and stolen CCTV cameras. In this regard, when the defacto complainant made an enquiry on 03.06.2022 at 01.00PM, he was abused in filthy languages and also criminally threatened by the accused persons. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the property belongs to public. The first petitioner is the Executive Member of Hazarath Thable Alam Badhursha Nathervall Dargah. The first petitioner also filed a suit in O.A.No.44 of 2022 before the WAKF Tribunal and interim stay also granted in I.A.No.309 of 2022 in their favour.

4. The learned counsel for the intervener submitted that the property belongs to his family members and the petitioners are causing trouble to them.

5. Considering the above facts, the right of the disputed property can be decided only in O.A.No.44 of 2022, which is pending before WAKF Tribunal. In this petition for anticipatory bail, this Court need not go into those aspects. This Court concerns whether the offence under Sections 294(b), 448, 427, 506(ii) IPC are attracted or not. There is a specific allegation of damage to the tune of Rs.1 lakh caused by the petitioners.

6. As far as the third petitioner is concerned, he is involved in Crime No.154 of 2019 under Sections 448, 294(b), 324, 506(ii) IPC. Since it is a case of assault and after obtaining bail, he has indulged in this offence, he is not entitled for discretionary relief from this Court. The learned counsel for the petitioners also seeks permission to withdraw this petition, in respect of third petitioner. This Criminal Original Petition stands dismissed as withdrawn as against the third petitioner.

7. In view of the above, this Court is inclined to grant anticipatory bail to the first and second petitioners alone.

8. Accordingly, this Criminal Original Petition is allowed on condition that the first and second petitioners shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Cr.No.880 of 2022 before the trial Court concerned, without prejudice to his rights and contentions before the trial Court.

9. On such deposit being made, the first and second petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.1, Trichy, on condition that the first and second 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 the first and second petitioners shall appear before the respondent police daily at 10.30 a.m. until further orders. The first and second petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

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10. The first and second petitioners 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/-

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

TO

1. THE JUDICIAL MAGISTRATE NO.1,
TRICHY.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
FORT POLICE STATION,
TRICHY CITY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.11697 of 2022

Date :20/07/2022

pnm

USK/SVR/SAR-I/28.07.2022/3P/5C