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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD) . No.17452 of 2022

1.Sankaranarayanan
2.Velmurugan
3.Muthu Kumar

... Petitioners/Petitioners/
Accused Nos.1 to 3

Vs

State rep.by
The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
(Crime No.210/22).

... Respondent/Complainant

For Petitioners : M/s.V.Maharajan Advocate.

For Respondent : Mr.Vaikkam Karunanidhi
Government Advocate (Crl.Side)

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

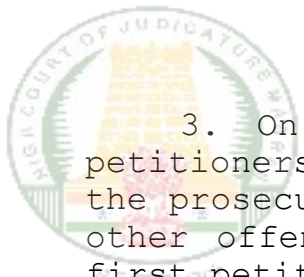
PRAYER :-

For Anticipatory Bail in Crime No.210/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused Nos.1&2 and one unnamed accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 448,294(b),323, 506(2)of IPC in Cr.No.210 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant has preferred a complaint before the CM cell that the first petitioner herein has purchased 52 cents of land which was classified as Odai and an enquiry before the registration department was held on 08.08.2022. Therefore, on 04.08.2022, the defacto complainant was attacked by the petitioners with wooden log and he sustained head injury. Hence the complaint.



3. On the side of the petitioners, it is stated that the petitioners/A1 to A3 have not committed any offence as alleged by the prosecution. Except the offence under Section 506(ii) I.P.C, all other offences are bailable in nature. The overt act against the first petitioner/A1 is that he attacked the defacto complainant with wooden stick. The overt act against the second petitioner/A2 is that he attacked the face of the defacto complainant and the third petitioner/A3 and A4 pushed down the victim, subsequent, to those narration, the prosecution has just mentioned that they displayed a knife and threatened the defacto complainant with dire consequences. If at all the petitioners was in possession of dangerous weapon, they might have attacked the defacto complainant with that weapon. They have been falsely implicated in this case. It was the defacto complainant, who gave a false complaint against the petitioners and pray the petitioners to be released on anticipatory bail.

4. The learned Government Advocate(Crl.side) submitted that there are three named and one unnamed accused in this case. The first and second petitioners are accused Nos.1 and 2 and the third petitioner is the fourth accused. In the alteration report, the name of the fourth accused was added. The victim intimated to the Chief Minister's Special Cell that 52 cents of Government land was occupied by the petitioners. As a counter blast, the petitioners attacked the defacto complainant and the defacto complainant took treatment as inpatient for 16 days. The petitioners/Accused Nos.1,2 and 3 are having one previous case of similar in nature and prayed the petition to be dismissed.

5. It is seen that the earlier petition filed by the petitioners, in Crl.O.P.(MD)No.14354 of 2022, was dismissed on 16.09.2022. Till now, the respondent police have not taken any steps to arrest the petitioners. Considering the facts and circumstances of this case and considering the nature of the offence and considering the fact that major portion of the investigation might have been completed by this time, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, this 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 learned Judicial Magistrate No.V, Tirunelveli, 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 respondent Police or to the Police Officer, who intends to arrest or 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 until further orders;

(c) the petitioners shall not tamper with 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-

30/09/2022

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/10/2022

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

Ls

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.V,
TIRUNELVELI.
2. -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
MUNNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.MAHARAJAN.V Advocate SR.No.10888

ORDER

IN

CRL OP(MD) No.17452 of 2022

Date : 30/09/2022