



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 09/12/2022

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PRESENT

**The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA**

CRL OP(MD). No.21785 of 2022

K.Rajendran

... Petitioner/Accused No.1

Vs

The State rep.by,  
The Inspector of Police,  
Vilathikulam Police Station,  
Thoothukudi District.  
Crime No.315 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Anand R,  
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.315 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 379 (NP) of IPC in Crime No.315 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Rajan, who was working as Cluster Manager, G.T.L. Infrastructure Limited, Chennai, is that the accused had dismantled the cellphone tower installed on his property and committed theft of the materials. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is the owner of the property in S.No.34/4A, Ettaiyapuram Road, Vilathikulam Town, Vilathikulam Village. Earlier, Aircel Company has entered into an agreement with the petitioner for



installation of a cellphone tower for a period of 15 days on 21.05.2003. Pursuant to which, the cellphone tower was installed in their premises, subsequently, Aircel network became defunct in the year 2018. Since the cellphone tower was unattended, became rusty and started falling down, causing damage to the persons nearby and thereby, the petitioner had given a complaint to the police on 29.12.2020, seeking for redressal. The police had conducted an enquiry in C.S.R.No.572 of 2020 and had issued summons to the Aircel Company for appearance and they did not appear. In the meanwhile, there was a due of rental arrears of Rs.7,00,000/-. While so, someone had come and dismantled the cellphone tower and the petitioner was under the impression that the company persons had come and dismantled the tower whereas now, a false complaint has been given against the petitioner, as if the petitioner committed theft of the cellphone tower. He would further submit that the case has been registered based on the direction obtained from the Court, under Section 156(3) of Cr.P.C. He would further submit that it is the habit of the de-facto complainant company to obtain Court orders from Court to register the cases. This Court in a similar circumstances in Crl.R.C.(MD)Nos.646 of 2022 and Batch etc., dated 28.08.2022, had deprecated the practice of the company registering the cases based on Court direction. He would further submit that the petitioner is a permanent resident and to show his *bona fides*, the petitioner is ready and willing to furnish adequate security for his release on anticipatory bail and also undertakes to abide by any stringent condition that may be imposed by this Court.

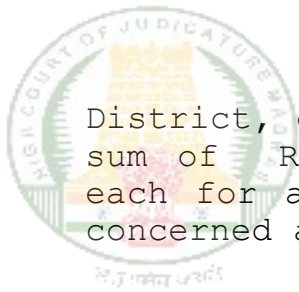
4.The learned Government Advocate (Crl. side) would submit that the petitioner is the lessor of the premises, where, the de-facto complainant's cellphone was installed. Originally, the agreement was entered between Aircel and the petitioner and later, the de-facto complainant had took over the cellphone tower and that the accused had committed theft of the materials worth about Rs.21,81,402/- and he opposed for grant of anticipatory bail.

5.At this juncture, the learned counsel for the petitioner would submit that there is no privity of contract between the petitioner and the de-facto complainant and further there is a rental arrears by Aircel Company and thereby, he seeks for anticipatory bail.

6.Heard. Perused the materials available on record.

7.Taking into consideration the facts and the submissions, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Vilathikulam, Thoothukudi



District, on condition that the petitioner shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner 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 petitioner shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-  
09/12/2022

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/12/2022

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

SJI

TO

- 1.THE JUDICIAL MAGISTRATE, VILATHIKULAM, THOOTHUKUDI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THOOTHUKUDI.
- 3.THE INSPECTOR OF POLICE,  
VILATHIKULAM POLICE STATION,  
THOOTHUKUDI DISTRICT.



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

+1 CC to M/s.R.ANAND, Advocate ( SR-14631[I] dated 09/12/2022 )

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ORDER

IN

CRL OP(MD) No.21785 of 2022

Date :09/12/2022

RK/SSS/SAR-3 (16/12/2022) 4P/6C