



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.22560 of 2022

M.Malairaj

... Petitioner/Accused No.3

-vs-

The State represented by
The Inspector of Police,
Earvadi Dharha Police Station,
Ramanathapuram District.
(in Cr.No.169 of 2022)

...Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.169 of 2022.

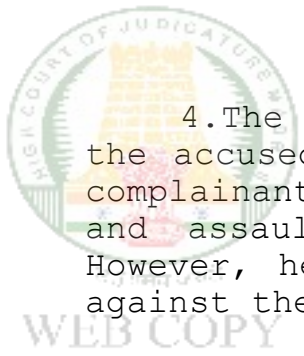
For Petitioner	: Mr.S.Malaikani Advocate
For Respondent	: Mr.M.Veeranthiran Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 324 and 506(ii) r/w 109 of IPC in Crime No.169 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Syed Abubakkar is that on 05.12.2022, while he was plucking the coconut in the grove, on the instigation of A3, the accused had abused him and had attacked him and his friends with bricks, due to which, he sustained injury. The further allegation is that the accused have threatened him. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that there is a civil dispute pending with regard to coconut grove and a false complaint has been given. He would also submit that on the complaint given by the petitioner's side, a case in Cr.No.170 of 2022 has been registered against the de-facto complainant and his men. He would also submit that even as per the FIR, the petitioner was not present in the scene of occurrence and since, he being a Government employee, the petitioner's name has been unnecessarily included in the FIR.



4.The learned Government Advocate (Crl.side) would submit that the accused have trespassed into the coconut grove of the de-facto complainant and while he was plucking coconut, they have abused him and assaulted him with the bricks on the instigation of A3. However, he would also submit that a counter case is also pending against the de-facto complainant's side.

5.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 No.II, Ramanathapuram, on condition that the petitioner shall execute a 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 everyday at 06.30 p.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/-

20/12/2022

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

CMR

<https://www.mhc.tn.gov.in/judis>



TO

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

+1 CC to M/s.MALAIKANI.S, Advocate (SR-15230[I] dated 21/12/2022)

ORDER
IN
CRL OP(MD) No.22560 of 2022
Date :20/12/2022

USK/MMS/SAR-I/26.12.2022/3P/6C