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CrI.O.P.No.13626 of 2023

CrI.O.P.No.13626 of 2023
and CrI.MP.No.8992 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 324 and 506(2) of IPC, 1860 in Crime No.49 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant/Sivanesan is that he is working as a daily wager in a school. While so, on 07.06.2023, the defacto complainant had asked for water from A1 for school purposes but he refused stating that he is a ward member and left the place. After a while, the first accused came along with other three accused and abused him in filthy language and also attacked him with wooden log and iron rod, and thereby caused grievous injuries in his spinal cord. Hence, the complaint.



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3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false complaint has been given against the petitioners. He would further submit that the first petitioner is a disabled person suffering 60% disability and no such incident had happened and thereby, he would seek for anticipatory bail to the petitioners.

4. The learned Government Advocate (CrI.Side) appearing for the respondent would submit that it is a case where the defacto complainant was not given water, the accused have assaulted him indiscriminately with iron rod and wooden log resulting the defacto complainant suffering fracture in the spinal cord. He would further submit even though the defacto complainant has been discharged from the hospital the injury suffered by the victim is stated to be the grievous in nature and he therefore submitted that the respondent are taking steps to alter the case to one under Section 326 of IPC. As to the other accused, he submits that they have assaulted the defacto complainant with wooden log. He opposed for granting anticipatory bail to the petitioners.



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5. Heard the learned counsel on both sides and perused the entire materials available on record including the First Information Report.

6. Taking into consideration the facts of the case and the submissions made by the learned counsel on either side and also taking note of the overtact attributed by the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner and this petition is dismissed with respect to the first petitioner and as far as to 2, 3 & 4 petitioners, this Court is inclined to grant anticipatory bail with certain conditions.

7. Accordingly, the petitioners 2 to 4 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Kotagiri, on condition that the petitioners shall execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction



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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 petitioners 2 to 4 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 2 to 4 shall report before the respondent police everyday at 10.30 a.m, until further orders;

[c] the petitioners 2 to 4 shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioners 2 to 4 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 petitioners 2 to 4 in accordance with law as if the conditions have been imposed and the petitioners 2 to 4 released on bail by the learned Magistrate/Trial



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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;

8. Accordingly, this Criminal Original Petition is dismissed with respect to the first petitioner and the petitioners 2 to 4 are concerned, this Criminal Original Petition is ordered. Consequently, connected Miscellaneous Petition is closed.

27.06.2023

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