



Crl.O.P.No.15324 of 2023

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G.CHANDRASEKHARAN. J.

The petitioner namely Gobisankar, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 147, 447, 294(b), 323, 324 and 506(2) IPC and 3(1) Tamil Nadu Public property (Prevention of damage and loss) Act, in Crime No.142 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. Learned counsel for the petitioner submitted that, petitioner is falsely implicated for the offences under Sections 147, 447, 294(b), 323, 324 and 506(2) IPC and 3(1) Tamil Nadu Public property (Prevention of damage and loss) Act, in Crime No.142 of 2023. The Petitioner in Crl.O.P.No.15324 of 2023 is the JCB drivers. Apprehending arrest at the hands of the respondent, this petition is filed.

3. Before recording the submissions of the learned counsel for the parties, it is pertinent to refer to the allegations made in the first information report.



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4. It is seen from the first information report allegations that defacto complainant is the Managing trustee of Nalvar madalayam and Vinayagar Temple situated in S.F.No.85 and 84/2 of T.Kottampatti Village, Palladam Road, Pollachi Town. This land originally belonged to one, Rathnasabapathy. The said Rathnasabapathy had appointed the grand father of the defacto complainant namely Palaniyappan Pillai as representative in the year 1930 orally. Thereafter, in the year 1931 Nalvar Madalayam and Vinayagar temple were constructed in that land. Patta was changed in the name of Palaniyappan Pillai and Palaniyappan Pillai was maintaining the Nalvar Madalayam and vinayagar temple as representative. Thereafter, his son Dharmalingam Pillai was maintaining Nalvar Madalayam and vinayagar temple. The trustee of representative Murugesan Pillai got electricity connection from 01.01.1960. When things were being so, Rathnasabapathy's grandson R.Sanjeevkumar fabricated document and filed a Suit in O.S.No.145 of 2016, on the file of the District Munsif Court, Pollachi and got interim order. That interim order was challenged by defacto complainant's father in CMA.No.9 of 2016 and that was allowed. Challenging the said order, R.Sanjeevkumar filed C.R.P.No.2854 of 2017 before this Court. This Court passed an order to



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maintain Status-quo. As per the Status-quo passed, defacto complainant has been managing the temple and doing daily pooja. O.S.No.145 of 2016 was transferred to Vth Additional District Judge, Coimbatore. There is also another Suit in O.S.No.363 of 2016 filed by Trust. Both the suits are being tried together and were adjourned to 24.07.2023. In the meanwhile, there was a talk that R.Sanjeevkumar, Yamunai Durivan and Thiyagu are planning to demolish Nalvar Madalayam and Vinayagar temple, the compound wall and take unlawful possession. On 15.06.2023, at about 10.30 p.m., when they tried to encroach, the defacto complainant gave a complaint in that regard. The complaint was pending enquiry. On 21.06.2023, at about 2.30 a.m., public had informed the defacto complainant and his brother Dharmalingam that, some unidentified persons came in a van bearing registration No.TN 48 Z 6566 along with JCB machine and demolished the compound wall in Nalvar Madalayam and Vinayagar Temple. Defacto complainant rushed to the spot and found Sanjeevkumar, Yamunai Durivan and Thiyagu had completely demolished the Nalvar Madalayam compound wall and threatened Sitheshwaran and Srinivasan. They threw a stone at Srinivasan. As a result, he suffered injuries. Sithishwaran was beaten with hands and their cell



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phones were snatched. Therefore, the complaint was given. On the basis of the complaint, first information report is registered.

5. It is the submission of the petitioner in Crl.O.P.No.15529 of 2023 that, there is admittedly a dispute with regard to owning of Nalvar madalayam and Vinayagar Temple. Petitioner got an order from the Tahsildar in Muu.Mu.No.2681/2023/Aa2 dated 17.06.2023, permitting to demolish the building in dilapidated condition. The reason for giving permission is that, the building was in dilapidated condition and monsoon is ensuing and there is a possibility that the building will fall down. In the said circumstances, building was permitted to be demolished, without causing disturbance to the temple, houses nearby and public properties. There was also a direction given to seek Police protection. It is the submission of the learned counsel for the petitioner that, on the basis of this order of Tahsildar in Muu.Mu.No.2681/2023/Aa2 dated 17.06.2023, they had demolished the compound wall on the building.

5.1. Learned counsel for the petitioner in Crl.O.P.Nos.15324 of



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2023 submitted that, as per the instructions of 1st accused, he was engaged for demolishing the compound wall on daily wage basis.

6. In response, Mr.A.E.Ravichandran, learned counsel for the intervenor, strongly opposed this petition, for the reason that,

(i) There is already a civil suit pending.

(ii) There is an order of Status-quo passed by this Court in CRP.No.2854 of 2017.

(iii) Even prior to this incident, defacto complainant had already given a complaint to the respondent police and CSR.No.139 of 2023 is pending in this regard.

He further submitted that, despite the order of status-quo passed by this Court, the accused in this case had violated this Court's order and they proceeded to demolish the Nalvar Madam and compound wall. In the said circumstances, petitioner is not entitled for bail. Thus, he seeks dismissal of this petition.



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7. When the matter is taken up on 31.07.2023, learned counsel for the petitioner in Crl.O.P.No.15529 of 2023 submitted that, without going into the merits of the claim, he is preferred to either construct the compound wall and building or deposit the amount ordered by this Court. In this regard, an undertaking affidavit is filed by Rathinasabapathy, father of the 1st accused today.

8. Considered the submissions and perused the records.

9. As the facts narrated above from the first information report allegations and from the submissions of the learned counsel for the parties, this Court is of the view that, there is a civil dispute pending between the defacto complainant's family and 1st accused, in connection with management and administration of Nalvar madalayam and Vinayagar temple. As of now, two suits are pending. Originally 1st accused got interim order and that was revised by the 1st appellate Court. Against the said order, CRP.No.2854 of 2017 is filed and this court ordered the parties to maintain status-quo. Status-quo means status as on the date of passing orders is to be maintained. From



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the facts obtained, it is apparent and clear that, accused in this case had violated the status-quo order passed by this Court and proceeded to demolish the compound wall and the building.

10. This Court also finds from order of the Tahsildar, on the basis of which, petitioner claims to have demolished the compound wall of the building, that, Tahsildar gave permission only to demolish the dilapidated tilted roof building. There is also a specific mention that, at the time of the demolishing of old building, no disturbance should be caused to the nearby temple, houses and public properties. Nowhere, it is stated that, 1st accused was granted permission to demolish the compound wall of the temple building. As already stated, defacto complainant/intervenor can take up this matter in the pending CRP.No.2854 of 2017 for appropriate relief, including proceeding against the accused for contempt of the Court. Now, what this Court is concerned is that, whether continued incarceration of the petitioner in judicial custody is necessary. Admittedly the petitioner is in judicial custody from 21.06.2023. Now the investigation in this case is pending. The parties have produced photographs of the demolished portion of the



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compound wall of the building.

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11. Considering the fact that, petitioner are in judicial custody from 21.06.2023 and that material part of the investigation is completed and the fact that, petitioner is hired by 1st accused for demolishing work, probably they may not aware of the pending dispute between defacto complainant and 1st accused, this Court is of the view that, custodial interrogation of the petitioner is not necessary and 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.I, Pollachi**, on condition that the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five 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:



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[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 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].



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

01.08.2023

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