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Crl.O.P.No.16021 of 2023

Crl.O.P.No.16021 of 2023
and Crl.M.P.No.11657 of 2023

RMT.TEEKAA RAMAN, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 147, 445, 453 of IPC and Section 3(1) of Prevention of Damage to Public Property Act, 1984 in Crime No.164 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the accused trespassed into the house of the defacto complainant and damaged the property belongs to him worth about Rs.10,000/-. Hence the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have nothing to do with the alleged offence. He would further submit that Civil cases between the petitioners and the defacto complainant are pending in O.S.No.163 of 2015 and O.S.No.79 of 2017 before the Sub Court, Vellore and the Principal District Munsif Court, Vellore respectively. He would further



Crl.O.P.No.16021 of 2023

WEB COPY

submit that A1 in this case has already been granted anticipatory bail by this Court in Crl.O.P.No.17760 of 2023 on 10.08.2023 with a condition to deposit a sum of Rs.10,000/- and the petitioners are also prepared to deposit this amount before the Court below. Hence, he prayed for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Criminal Side) for the respondent would submit that the articles belonged to the accused and pursuant to the civil decree granted by the Hon'ble Supreme Court in Civil Appeal Nos.3343 & 3344 of 2023, he was supposed to vacate and hand over the premises by 31.05.2023 as he failed to do so, the defacto complainant has filed execution petition before the District Munsif Court, wherein, pre-delivery was ordered on 08.06.2023. He would further submit that list of articles recovered at the time of taking possession of the immovable property was recorded in the said execution petition on 28.06.2023. Hence, he opposed for grant of anticipatory bail to the petitioners.



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5. The learned counsel for the intervenor would submit that the damages caused to the properties is more than Rs.3,00,000/-.

6. Heard both sides and perused the materials available on record including the FIR.

7. It appears that subsequently the original tenants who are accused herein caused damages to the doors and other properties and taken away their properties, resulted in filing of the FIR. As per the FIR, the cost of damage is Rs.10,000/-.

8. The learned counsel for the intervener disputed the amount as if it is Rs.3,00,000/-. But however, even in the intervening petition, it has not been stated so.

9. Taking into the consideration the facts and circumstances of the case and also the submissions made by the learned counsel on either side and also of the fact that the petitioners are voluntarily offers to deposit Rs.10,000/- in Crime No.164 of 2023, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



Crl.O.P.No.16021 of 2023

WEB COPY

10. Accordingly, the petitioners 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 made ready, before the **learned Judicial Magistrate, Vellore** on condition that the petitioners shall execute a separate 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 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 without prejudice to their defence shall jointly deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Crime No.164 of 2023 before the concerned Court.



WEB COPY



Crl.O.P.No.16021 of 2023

[c] the petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

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

11. Accordingly, this Criminal Original Petition is ordered. Consequently connected miscellaneous petition is closed.

16.08.2023

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Crl.O.P.No.16021 of 2023

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Crl.O.P.No.16021 of 2023

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