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Crl.OP.No.16696 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.OP.No.16696 of 2023

1.Pazhani

2.Malliga

...Petitioners

Vs.

The State Rep by its
The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.
(Crime No.340 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.340 of 2023 on the file of Inspector of Police, Arakandanallur Police Station, Villupuram District.

For Petitioners : Mr.K.Balu

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

For Intervenor : Mr.C.Prabakaran



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ORDER

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The petitioners, who were arrested and remanded to judicial custody on 29.06.2023 for the offences punishable under Sections 448, 294(b), 506(ii) r/w 3 of TNPPDL Act in Crime No.340 of 2023 on the file of the respondent police, seek bail.

2.The learned counsel for the petitioners submitted that, petitioners are falsely implicated as accused in Crime No.340 of 2023 for the offences under Sections 448, 294(b), 506(ii) r/w 3 of TNPPDL Act. Petitioners are innocents. It is his further submission that, 2nd petitioner namely Malliga purchased an extent of 297.67 sq.meter in Survey No.93/6 at Arunapuram Village, Thirukovilur on 23.09.2015. There was no land left in this survey number. Despite knowing that, defacto complainant purchased certain extent of land in Survey No.93/6, which is not in existence. Claiming that, petitioners had demolished the house in the property purchased by them, a false complaint was given. Petitioners are in judicial custody from 29.06.2023. Therefore, he prays for grant of bail to the petitioners.



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3. In response, learned counsel for the intervenor submitted that, defacto complainant purchased an extent of 49.07 sq.meter in the same Survey number, which is the remaining of the extent available in the Survey No.93/6, after the purchase made by the 2nd petitioner Malliga. Defacto complainant belong to downtrodden community and there was an asbestos sheet house existed in the land. Petitioners have demolished this house, worth Rs.6,00,000/-. He further submitted that, petitioners instead of approaching the Civil Court, with regard to the title of the property in possession, had high handedly demolished the house using JCB. Thus, he prays for dismissal of this petition.

4. Learned Additional Public Prosecutor also supported the submission of the learned counsel for the intervenor stated that the value of the house demolished is Rs.5,00,000/-.

5.Considered the rival submissions and perused the records.

6. This Court perused the title deeds in favour of the petitioners



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dated 23.09.2015 and defacto complainant dated 07.11.2022. It is apparent from the Sale Deed that, both had purchased certain portion in the same Survey number, the large portion being purchased by the petitioners. It appears that, there was a rivalry between them, in purchasing the portion, now purchased by the defacto complainant. Petitioners are in judicial custody from 29.06.2023. This Court is of the view that, this case has to be proved only through documentary and oral evidence.

7. Considering the nature of the allegations made against the accused and that petitioners are in judicial custody from 29.06.2023 and that material part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioners with conditions and the petitioners are ordered to be released on bail on their executing separate bond for a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Thirukoilur** and on further conditions that :-



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[a] 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 his defence shall deposit a sum of Rs.3,00,000/-, to the credit of the Crime No.340 of 2023 before the learned Judicial Magistrate, Thirukoilur. On such deposit, learned Magistrate is directed to use the amount for awarding victim compensation under Section 357 of Cr.P.C; Payment of this amount will not amount to admission of guilt of the petitioners.

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

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

[e] the petitioners shall not tamper with evidence or witness 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



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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].

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

07.08.2023

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To

- 1.The Judicial Magistrate, Thirukoilur.
- 2.The Inspector of Police,
Arakandanallur Police Station,
Villupuram District.
- 3.Sub-Jail, Thirukoilur (Santhapettai)
- 4.Central Prison, Cuddalore.
- 5.The Public Prosecutor,
High Court of Madras

G.CHANDRASEKHARAN. J.



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