



Crl.O.P.No.22395 of 2023

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WEB CMT.RMT.TEEKAA RAMAN, J.

The Petitioners, who apprehend arrest at the hands of the Respondent police for the offence punishable under Sections 79(B)(3) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, in Crime No.207 of 2023 on the file of the Respondent police, seek anticipatory bail.

2.The case of the prosecution is that the Petitioners encroached the land in survey No.310/12 measuring 0.0645.0 Hectares of land in West Car Street Nangavalli Village belonging to the Arulmigu Lakshmi Narasimmaswamy and Someswarar Swamy Tempe, wherein Kalmandamam is situated. Hence the complaint.

3.The learned Counsel for the Petitioners would submit that the land in question is classified as Natham land and the ancestors of the Petitioners were in possession of the property for more than 100 years and they have constructed the Kalmandapam therein and they performed special poojas there. Hence, the learned counsel for the Petitioners prays for grant of anticipatory bail to the Petitioners.

4.The learned Government Advocate (Crl. Side) for the Respondent vehemently opposed to grant anticipatory bail to the Petitioners.

5.Heard both sides and perused the materials available on record.



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6.Learned counsel for the Petitioners draw my attention to the details of the FIR and filing of Suit in O.S.No.36 of 2022 on the file of the Sub Court, Mettur and would contend that they are in possession for more than 100 years and civil suit seeking injunction against the very same Defacto Complainant is pending and allegation in FIR made under Section 79(B)(3) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which came into force only in the year 2021.

7.Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsel on either sides and the nature and gravity of the offence, this Court is inclined to grant anticipatory bail to the Petitioners with certain conditions.

8.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 I, Mettur**, 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



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and on further condition that:

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[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 shall report before the Respondent Police, on every Monday, Wednesday and Friday at 10.30 a.m., for a period of three weeks and thereafter as and when required;

[c] the Petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the Petitioners 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

29.09.2023

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