



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Ninth day of February Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P (MD) No.881 of 2023

1.Rajendran
2.Valarmathi
3.Patchaiammal

...Petitioners/Accused No.1,5&6

-vs-

1 The State represented by
The Inspector of Police,
Natham Police Station,
Dindigul District.
(Cr.No.160 of 2022)

...Respondent/Complainant

2 Puliyankutty Karuppanan

...Petitioner/Intervener

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioners on bail in the event of their arrest in connection with Cr.No.160 of 2022 on the file of the respondent Police.

For Petitioners : Mr.R.Venkateswaran

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

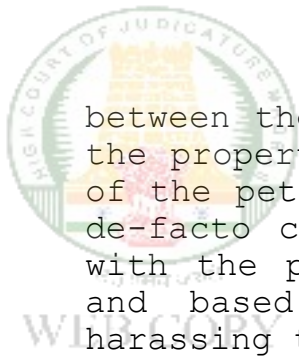
For Intervener : Mr.S.Sarvagan Prabhu

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 447, 147, 148, 294(b), 324, 354, 379 and 506(ii) of IPC in Crime No.160 of 2022 on the file of the respondent Police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, is that on 11.05.2022, the accused persons have stolen 250 coconuts from the de-facto complainant's land and when it was questioned by him, the accused persons have abused him in filthy language and also threatened him with dire consequences. Hence, the complaint.

3.The learned Counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He submit that the fact remains that there is a dispute



between the petitioners and the de-facto complainant with respect to the property. The property stands in the name of the fore fathers of the petitioners and they are in possession of the property. The de-facto complainant, who is an influential person, is interfering with the possession of the petitioners and he is creating problem and based on a patta illegally obtained, he is continuously harassing the petitioners.

4.He would further submit that earlier, in an application in CrI.O.P.(MD)No.12461 of 2022 seeking to provide police protection to the petitioners' life and agricultural property in S.No.194/2, situated at Pudur Village, Natham Taluk, Dindigul District, this Court, by order, dated 11.07.2022, had directed the respondent to enquire the case in Cr.No.161 of 2022 and counter case in Cr.No.160 of 2022 within a period of three weeks and take suitable action on merits in the matter. However, the respondent has not taken any steps to close the enquiry, but they are sailing with the de-facto complainant and are bent upon registering cases after cases against the petitioners and their family members and attempting to evict them by force and thereby, he would seek for anticipatory bail.

5.The learned Government Advocate (crl.side) would submit that the petitioners and the de-facto complainant are adjacent land owners and he would submit that the de-facto complainant is in possession of the property, whereas, the petitioners and their family members are repeatedly harassing the de-facto complainant's family members and every three months, they have been repeatedly indulging in nefarious activities and thereby, in the event of granting anticipatory bail, he would seek some stringent conditions may be imposed and the petitioners may be directed file an affidavit of undertaking to the effect that they will not indulging in illegal activities here and after.

6.The learned Counsel for the intervenor/de-facto complainant would submit that the intervenor is in possession of the property from time immemorial and the accused family members, taking advantage of the common name of the ancestors, are in the habit of grabbing lands belonging to persons in the village. He would submit that the de-facto complainant's fore father's name is Aandi and the accused fore father's name is also Andi and claiming that they are the owners of the property, without having materials on record, are creating problem after problem. He would further submit that the fact remains that the de-facto complainant is in possession of the property and earlier, portion of the property was acquired by the National Highways Authority of India and after enquiry, the National High Ways Authority has passed an award in favour of the de-facto complainant's family members and he would reiterate that they are in possession.

7.In reply, the learned Counsel for the petitioners would submit that the accused family has filed an objection to the same



and the amount have not been disbursed to the de-facto compl

8. Heard the learned Counsel. Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. 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 District Munsif cum Judicial Magistrate, Natham, on condition that the petitioners shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 shall report before the respondent police everyday at 06.30 p.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[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 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]**.

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

10. The observations made in this petition are only for the purpose of deciding this petition and they will not have any bearing in the civil suit pending between the parties.

sd/-

09/02/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR

<https://www.mhc.tn.gov.in/judis>



TO

1.The District Munsif cum Judicial Magistrate, Natham.

2.Do through the Chief Judicial Magistrate,
Dindigul District.

3.The Inspector of Police,
Natham Police Station,
Dindigul District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-2096[I] dated
09/02/2023)

+1 CC to M/s.R.VENKATESWARAN, Advocate (SR-2213[I] dated 13/02/2023
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ORDER

IN

CRL OP (MD) No.881 of 2023

Date :09/02/2023

NA/VS/SAR-4/23.02.2023/4P/7C