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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/01/2023

PRESENT

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

CRL OP(MD). No.874 of 2023

1. R.Vallikannan
2. M.Palraj Nadar
3. Poonuthai
4. Rajaselvakumar
5. Muthukili
6. Ranganathan
7. Nandhini
8. Indra
9. Murugan

... Petitioners/Accused Nos.1 to 9

Vs

State Rep.by
The Inspector of Police,
Moolakaraipatti Police Station,
Tirunelveli District.
Crime No.177/2022.

... Respondent/Complainant

For Petitioners	: M/s.Ananth C.Rajesh, Advocate.
For Respondent	: Mr.P.Kottaichamy, Government Advocate (Crl.Side)
For Intervenor	: Mr.P.Ponraj, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.177/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1 to A9, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 323 and 379 of I.P.C., in Crime No.177 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the defacto complainant Ganesan Nadar, is that on account of a property dispute between the defacto complainant family and the accused family, that on 20.12.2022 at about 03.20 a.m., the first accused had trespassed

<https://www.mh12.gov.in>



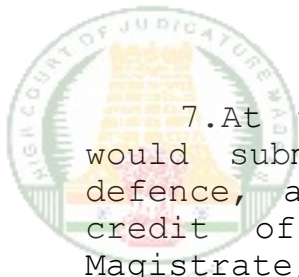
into the house of the defacto complainant and dragged him and assaulted him and the other accused have also assaulted the defacto complainant and his relatives and also caused damage to the shed and threw the chilli powder on the face of the defacto complainant and also taken away 2 ½ sovereigns of chain with 1/2 sovereigns of dollar from the daughter in law of the defacto complainant. Hence, the case.

3.The learned counsel for the petitioners would submit that the second petitioner and the defacto complainant are siblings and there was a property dispute between them and during the wee hours on 22.12.2022, the defacto complainant along with his family members started assaulting the second petitioner and his family members and during such quarrel, the first accused, who is a headman in the village intervened and he attempted to pacify the both groups, whereas, a false complaint has been given, as if, the petitioners have assaulted the defacto complainant. He would further submit that based on the complaint given by the petitioners' side, a case in Crime No.176 of 2022 has been registered against the defacto complainant and his family members. He would further submit that it is a case and case in counter and only as a counter blast, a false complaint has been given by the defacto complainant. Hence, he seeks for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the second petitioner and the defacto complainant are brothers and due to a property dispute, the accused, on 22.12.2022 at about 03.20 a.m., have assaulted the defacto complainant and his family members and caused damage to the shed and also snatched three sovereigns of gold jewels from the daughter in law of the defacto complainant. Hence, he would oppose for grant of anticipatory bail.

5.The learned counsel for the intervenor would very vehemently opposed for granting anticipatory bail stating that the petitioners, who are having muscle power, had trespassed into the house of the defacto complainant in the wee hours on 22.12.2022 and have indiscriminately assaulted the defacto complainant and his family members and they have also caused damage to the shed, thrown chilli powder on the face of the defacto complainant and the accused have also snatched three sovereigns of gold jewels from the daughter in law of the defacto complainant.

6.The learned Government Advocate (Crl. side) would further submit that the first petitioner has got four previous cases of similar in nature and as far as the first petitioner is concerned, he is a notorious element, who had taken sides with one of the brothers, interfered in a family matter and he has joined with the other accused, he has dragged the defacto complainant from the house and assaulted him and also kicked him on his chest.



7. At this juncture, the learned counsel for the petitioners would submit that the petitioners, without prejudice to their defence, are ready to deposit an amount of Rs.1,00,000/- to the credit of Crime No.177 of 2022 before the learned Judicial Magistrate, Nanguneri.

8. Heard. Perused the materials available on record including the First Information Report.

9. Taking into consideration the facts that the first petitioner has got four previous cases of similar in nature, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this petition is dismissed in respect of the first petitioner is concerned.

10. Taking into consideration the facts and the submissions and that the petitioners 2 to 9 are ready and willing to deposit Rs.1,00,000/- to the credit of Crime No.177 of 2022 before the learned Judicial Magistrate, Nanguneri, this Court is inclined to grant anticipatory bail to the petitioners 2 to 9 with certain conditions.

11. Accordingly, the petitioners 2 to 9 are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Nanguneri, on condition that the petitioners 2 to 9 shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with one surety each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners 2 to 9 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 2 to 9 shall jointly deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.177 of 2022 before the learned Judicial Magistrate, Nanguneri, without prejudice to their rights and contentions, at the time of furnishing sureties.

[c] the petitioners 2 to 9 shall stay at Thoothukudi and report before the Inspector of Police, Thoothukudi South Police Station, Thoothukudi District every day at 10.30 a.m for a period of two weeks and thereafter, report before the respondent police everyday at 10.30 a.m until further orders.

[d] the petitioners 2 to 9 shall not tamper with evidence or witness either during investigation or trial.



[e] the petitioners 2 to 9 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 2 to 9 in accordance with law as if the conditions have been imposed and the petitioners 2 to 9 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.

sd/-

12/01/2023

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23/01/2023

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

sjj

TO

1 THE JUDICIAL MAGISTRATE, NANGUNERI.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE, MOOLAKARAIPATTI POLICE STATION,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE,
THOOTHUKUDI SOUTH POLICE STATION,
THOOTHUKUDI DISTRICT.

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-699[I] dated
12/01/2023)

ORDER

IN

CRL OP(MD) No.874 of 2023

Date :12/01/2023

SA/SSS/SAR.(23.01.2023) 4P-7C