



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2023

PRESENT

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P(MD)No.1430 of 2023

- 1.Setti @ Chetty
2.Pandi
3.Jothi
4.Ponnuvayiru
5.Vairadeva
6.AV Raja @ AVM Rajan ...Petitioners/Accused rank No.1 to 4, 6 & 8
-vs-

The State represented by
The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
(Cr.No.225 of 2022)

...Respondent/Complainant

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 by the respondent Police with respect to Cr.No.225 of 2022.

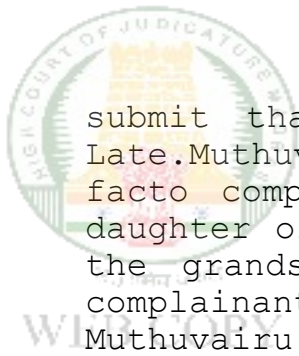
For Petitioners	: Mr.K.Saravanan
For Respondent	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.side)

ORDER

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 147, 294(b), 427 and 447 of IPC and Section 4 of TNPHW Act in Crime No.225 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 06.06.2022, the petitioners have trespassed into the land in S.No.10/15 to an extent of 4 acres 25 cents situated at Mullimunai, Karangkadu Revenue Group and harassed the de-facto complainant and also caused damage to the fencing stones to the tune of Rs.30,000/-. 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 would also submit that this is the second petition for anticipatory bail and the earlier petition for anticipatory bail in Crl.O.P.(MD) No.12787 of 2022 was dismissed on 27.09.2022. He would further



submit that the fact remains that A1 and A2s' father, Late.Muthuvairu has six sons and four daughters, including the de-facto complainant's father. A3, A4 and A8 are brother's son and daughter of the de-facto complainant's father and A5, A6 and A7 are the grandson of the de-facto complainant's father. The de-facto complainant's father Selvaraj was the elder son of the said Muthuvairu. The said Muthuvairu died before 1996 and thereafter, they were living as joint family and the de-facto complainant's father had taken charge to administrate the family. The Tamil Nadu Government has sponsored the land in question to the entire joint family. The said entire land sanctioned in the name of the father of the de-facto complainant. Unfortunately, the de-facto complainant's father died. Thereafter, the de-facto complainant is continuously taking steps to change their names in order to enjoy the scheme. Therefore, A3 filed a petition before this Court in Crl.O.P.(MD) No.10792 of 2022 and the same was disposed of on 24.06.2022. In these circumstances, the petitioners are continuously enjoying the subject property, but the respondent police registered the said false case against these petitioners and the petitioners have been pushed out of the possession. He would also submit that to show their *bona fide*, without prejudice to their rights and contentions, the petitioners are ready to jointly deposit Rs.30,000/- to the credit of crime number in respect of the alleged damage caused to the fencing stone.

4.The learned Government Advocate (crl.side) would submit that on 06.06.2022, the petitioners trespassed into the land in S.No.10/15 to an extent of 4 acres 25 cents situated at Mullimunai, Karangkadu Revenue Group and harassed the de-facto complainant and also caused damage to the fencing stones to the tune of Rs.30,000/-. He would oppose for grant of anticipatory bail to the petitioners.

5.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.

6.The petitioners shall pay a sum of Rs.30,000/- to the credit of crime number without prejudice to their rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District, at the time of furnishing sureties.

7.Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8.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 petitioner with certain conditions.



9. Accordingly, on production of proof for deposit, 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 Judicial Magistrate Court, Thiruvadanai, Ramanathapuram District, 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 at Kanyakumari District and report before the Inspector of Police, Kanyakumari Police Station everyday at 10.30 a.m. and 05.30 pm 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.

sd/-

25/01/2023

/ TRUE COPY /

/02/2023

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

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVADANAI, RAMANATHAPURAM DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3 THE INSPECTOR OF POLICE
THONDI POLICE STATION, RAMANATHAPURAM DISTRICT



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

COPY TO:

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THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.

+1 CC to M/s.K.SARAVANAN, Advocate (SR-1436[I] dated 30/01/2023)

ORDER

IN

CRL OP(MD) No.1430 of 2023

Date :25/01/2023

SS/ /SAR-IV/04/02/2023/ 4P 7C