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23

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

Date : 07/02/2023

PRESENT

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

CRL OP(MD) . Nos.2405 and 2467 of 2023

1. Johnson Selvakumar @ Kumar
2. Chelladurai @ Selvam
3. Thamilarasan

... Petitioners/Accused No.2,3, & 5
in Crl.OP(MD)No.2405 of 2023

- 1.Chinnamadasamy
2. S.Balagurusamy @ Suresh
3. B.Bala Murugan

... Petitioners/Accused No.1,4 & 6
in Crl.OP(MD)No.2467 of 2023

Vs

The State rep.by,
The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
Crime No.46 of 2023.

... Respondent/Complainant
in both petitions

In both petitions:

For Petitioners : M/s.Maria Vinola M, Advocate

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

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.46 of 2023 on the file of the
Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands
of the respondent police for the alleged offence punishable under
Sections 147, 341, 353, 294(B), 352 of I.P.C, in Crime No.46 of
2023 on the file of the respondent police, seek anticipatory bail.

<https://www.mca.gov.in/judicial>



2.The case of the prosecution as per the defacto complainant viz., Parathasarathy, Commissioner, Additional Incharge, Kovilpatti Corporation is that on 01.02.2023 at 11.00 a.m., the defacto complainant along with his Officials went to the Pasumpon Muthuramalinga Thevar Daily Market to collect rent from the shop keepers/accused persons. The accused persons abused them with filthy language and also prevented them from discharging their official duties. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent and a false case was foisted against them. The petitioners are the tenants and they are running shops in the daily market. Without any notice, the Authority had demanded rent, over which, there was a quarrel and other than that there is no allegation against the petitioners. The petitioners are not having any previous case to their credit. Hence, prays to release them on anticipatory bail.

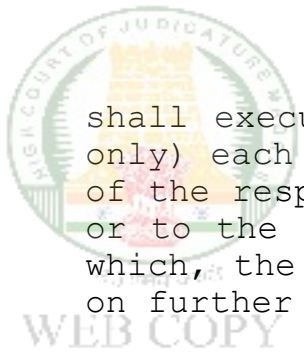
4.The learned Government Advocate (Crl.Side) submitted that in this case, the accused persons are the tenants in the Daily Market and did not pay the rent. When the same was demanded by the defacto complainant and by his Officials, they refused to pay and prevented them from discharging their official duties. So far as the second petitioner in Crl.OP(MD)No.2405 of 2023 is concerned, he is having 10 previous cases to his credit. Hence, prays to dismiss the petitions.

5.At this juncture, the learned counsel for the petitioners would submit that she is not pressing the petition, in respect of the second petitioner in Crl.OP(MD)No.2405 of 2023 is concerned. Hence, Crl.OP(MD)No.2405 of 2023 is dismissed as withdrawn, in respect of second petitioner.

6.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7.Taking into consideration the facts and circumstances of the case and considering the nature of the dispute between the parties, this Court is inclined to grant anticipatory bail only to the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner No.1 and 3 in Crl.OP(MD)No.2405 of 2023, with certain conditions.

8.Accordingly, these Criminal Original Petitions are partly allowed and the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.I, Kovilpatti**, on condition that the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023



shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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 in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or bank pass book to ensure their identity;

(b) the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 shall report before the respondent Police daily at 6:30 p.m., until further orders;

(c) the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 shall not tamper with the evidence or witness either during investigation or trial;

(d) the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 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 Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 in accordance with law, as if the conditions have been imposed and the petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 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]**; and;

(f) if the accused/ petitioners in Crl.OP(MD)No.2467 of 2023 and petitioner Nos.1 and 3 in Crl.OP(MD)No.2405 of 2023 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

07/02/2023

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



To

1 THE JUDICIAL MAGISTRATE NO.I, KOVILPATTI.

2 DO-THROUGH :

THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.

3 THE INSPECTOR OF POLICE
KOVILPATTI EAST POLICE STATION,
THOOTHUKUDI DISTRICT.

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

+2. CC to M/S.MARIA VINOLA M Advocate SR.No.1936(I) & 1937(I)

ORDER

IN

CRL OP(MD) No.2405 and 2467 of 2023

Date :07/02/2023

VA/SBN/SAR-2/14.02.2023/4P/7C