



WEB COPY

CRL.O.P(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

PRESENT

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

CRL.O.P(MD)No.3036 of 2023

1.Ramesh Kumar
2.Susi
3.Devakumar

...Petitioners/Accused No.1 to 3

-vs-

The State represented by
The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.
(Cr.No.361 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 in connection with Cr.No.361 of 2022 on the file of the respondent Police.

For Petitioners : Mr.S.Muniyandi

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), 323 and 506(ii) of IPC in Crime No.361 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 the accused persons have illegally trespassed into the house of the de-facto complainant and abused him with filthy language and also assaulted him with hands and iron rod 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 would also submit that the petitioners have not committed any offence, as alleged by the prosecution and they are ready to abide by any conditions, that may be imposed on them.

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4.The learned Government Advocate (crl.side) would submit that the accused persons have illegally entered into the house of the de-facto complainant and also abused him in filthy language and attacked him with hands and iron rod. He would also submit that the first petitioner has got six previous cases and the second petitioner has got one previous and hence, he seeks dismissal of this petition.

5.Considering the submission made by the learned Government Advocate (Crl.side) and also considering the fact that the first petitioner has got six previous cases, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this petition is dismissed as against the first petitioner.

6.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 2 and 3 with certain conditions.

7.Accordingly, the petitioners 2 and 3 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 No.II, Kulidurai, 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 2 and 3 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 and 3 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter every Saturday at 10.30 am until further orders.

[c] the petitioners 2 and 3 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 2 and 3 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 2 and 3 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/-
16/02/2023

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/03/2023

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

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To

- 1.The Judicial Magistrate No.II, Kulidurai.
- 2.Do through the Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.
- 3.The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL.O.P (MD)No.3036 of 2023
Date : 16.02.2023

NA-VA/BUC/SAR-3/24.03.2023/3P/5C