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

Date : 21/02/2023

PRESENT

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

CRL OP(MD) . No.3245 of 2023

1. Ebanesh Selvan ... Petitioner No.1/Accused No.2
2. Irwin Selvan ... Petitioner No.2/Accused No.3

Vs

The State Rep.by
The Inspector of Police,
Arumanai Police Station, Kanyakumari.
(Crime No.23/2023).

... Respondent

For Petitioners : M/s.Balasubramanian N,

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.23/2023 on the file of the Respondent Police.

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 Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in Crime No.23 of 2023, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant is that due to civil dispute between the parties, on 08.02.2023, the accused persons damaged the wall erected in the land belonging to the Arumanai Panchayat. Hence, the complaint.



3.The learned counsel for the petitioners submitted that the petitioners are innocent and a false case was foisted against them, since there was a civil dispute between the parties. The petitioners are arrayed as A2 and A3. At the time of occurrence, the first accused was living abroad, but his name was shown in the FIR. A civil suit in O.S.No.12 of 2023, on the file of District Munsif Court, Kuzhithurai is also pending between the parties. Hence, prays to release them on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that in this case due to civil dispute, the accused persons caused damages to the wall erected in the land belonging to the panchayat. Hence, prays to dismiss the petition.

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

6.Taking into consideration the facts and circumstances of the case and considering the nature of civil dispute between the parties, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7.Accordingly, this Criminal Original Petition is allowed and the petitioners 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, Kuzhithurai**, on condition that the petitioners shall execute a 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 learned 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 daily at 10:30 a.m., for a period of one week, thereafter, on every Saturday at 06.30 p.m., until further orders;

(c)the petitioners shall not tamper with the 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]**; and;

(f)if the accused/ petitioners thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
21/02/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE
NO.I, KUZHITHURAI.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE
ARUMANAI POLICE STATION, KANYAKUMARI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.BALASUBRAMANIAN N Advocate SR.No.2806

ORDER
IN
CRL OP(MD) No.3245 of 2023
Date :21/02/2023

MGJ/MMS/SAR 4/27/02/2023/3P/6C