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CRL OP(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/05/2023

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). Nos.8473 and 8577 of 2023

CRL OP(MD) No.8473 of 2023 :

1. M.Nivek
2. Kalyani

... Petitioners/Accused 4 & 5

Vs.

State Rep.by
The Inspector of Police,
Cumbum South Police Station,
Cumbum, Theni District.
(Crime No.101 of 2023).

... Respondent/Complainant

For Petitioners	: Mr.M.Kamatchi, Advocate.
For Respondent	: Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor

CRL OP(MD) No.8577 of 2023 :

Harish

... Petitioner/Accused No.7

Vs.

State Rep.by
The Inspector of Police,
Cumbum South Police Station,
Theni District.
Crime No.101/2023.

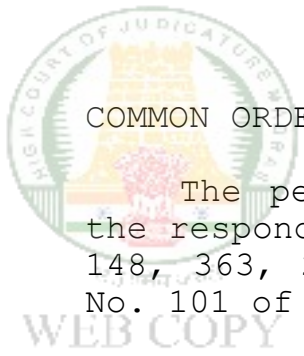
... Respondent/Complainant

For Petitioner	: Mr.M.Eswaran, Advocate.
For Respondent	: Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.101 of 2023 on the file of
the respondent police



COMMON ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 147, 148, 363, 294(b), 342, 323, 324, 307 and 506(ii) of IPC, in Crime No. 101 of 2023, seek anticipatory bail.

2. The case against the petitioner is that when the defacto complainant and his friend was sitting on the road side, one Rajaprabhu parked his car and boarded the defacto complainant and his friend to take rest in the car. When the said Rajaprabhu had slept inside the car, the defacto complainant and one Vijay planned to commit theft and they colluded with one person, by name, Dharma. The defacto complainant and Vijay were watching the others not to disturb the theft Dharma committed theft of gold chain, cell phone and cash of Rs.1,200/- and they pledged the gold chain and got a sum of Rs.39,200/-. Then, the said Dharma told the defacto complainant and Vijay that he is in urgent need of money and he gave Rs.500/- to each of them. On 18.04.2023, at about 7.00 pm., when the defacto complainant come out of a Bar, the petitioners and the other accused boarded the defacto complainant into a car and questioned him about the stolen articles and they attacked the defacto complainant and kidnappted the defacto complainant and he identified the house of Vijay. The accused attacked Vijay and the defacto complainant and they threatened them with dire consequences.

3. On the side of the petitioners, it is stated that even as per the complaint, the complainant and others committed robbery. The petitioners are no way connected with the case. Only due to the previous motive, a false case was registered against the petitioners and prayed the petitioners to be released on anticipatory bail.

4. On the side of the prosecution, it is stated that A4 is having three previous cases, A5 is having four previous cases, A7 is having two previous case and prayed the petitions to be dismissed.

5. Considering the nature of the offence and considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, this petition is allowed and 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 of receipt of a copy of this order, before the Judicial Magistrate, Uthamapalayam, Theni District, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions 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 report before the respondent police daily twice ie. Morning at 10.00 am and evening at 05.00 pm., until further orders;

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners shall be present before the Court on hearing dates and before the respondent police as and when required;

(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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/05/2023

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/05/2023

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

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TO

1 THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM, THENI DISTRICT.

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

3 THE INSPECTOR OF POLICE, CUMBUM SOUTH POLICE STATION, CUMBUM, THENI DISTRICT.

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

+1 CC to M/s.M.KAMATCHI, Advocate (SR-7232[I] dated 09/05/2023)

ORDER
IN
CRL OP(MD) . Nos.8473 and 8577 of 2023
Date :04/05/2023

PKP/BUC/SAR-3(10.05.2023) 3P 6C