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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated:25/08/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP(MD)Nos.15012 and 15360 of 2023

(1)CrI.OP(MD)No.15012 of 2023:-

S.Abdulkulam

: Petitioner/ A7

Vs.

The State of TamilNadu,
represented by
The Sub Inspector of Police,
Thillai Nagar Police Station,
Trichy City.
(Crime No.1336 of 2023)

: Respondent/ Complainant

For Petitioners : Mr.M.Karthick, Advocate

For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

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

PRAYER:- For Anticipatory Bail in Crime No.1336 of 2023 on the file of the respondent police.

(2)CrI.OP(MD)No.15360 of 2023:-

N.Ramprakash

: Petitioner/ A1

Vs.



The State of TamilNadu,
represented by
The Sub Inspector of Police,
Thillai Nagar Police Station,
Trichy City.
(Crime No.1336 of 2023)

: Respondent/Complainant

For Petitioners : Mr.B.Jameelarasu, Advocate

For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

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

PRAYER:- For Anticipatory Bail in Crime No.1336 of 2023 on the file of the respondent police.

COMMON ORDER: The Court made the following order:-

The petitioners, who are arrayed as A7 and A1 apprehend arrest at the hands of the respondent police for the offences punishable under sections 147, 295, 297, 447 and 427 IPC, in Crime No.1336 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that near Thenur Farmers Market area, the properties belongs to Wakf aged about several hundred years namely Anarbargah Darga and Kabardasthan are situated. It is also used as burial ground. The property was originally handed to the Wakf Board in GS No.543. On 15/03/2023 at about 04.00 am



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in the morning, the accused by name I.P.Ramkumar, Vincent, Adaikalaraj, Pasupathi, Silambarasan and V.G.Nagarajan, Power Agent of Ramprakash, Rathinaprakash at the instigation of one Suresh and others, caused damage and destroyed the above said Kabardasthan. Similar occurrence was also taken place. on 01/01/2023 at midnight. In respect of the above said occurrence, WA(MD)No.1418 of 2022 was filed before this court, which ended in their favour. On the basis of the above said occurrence, a case in Crime No.1336 of 2023 was registered for the offences stated above.

3. Seeking anticipatory bail, these petitions have been filed by the petitioners.

4. Heard both sides.

5. With regard to the issue, elaborate discussion has been made by this court in Crl.OP(MD)Nos.13313 and 13457 of 2023, dated 01/08/2023, which is extracted herein for better understanding of the issue.

“7. Perusal of the CD file shows that some of the accused persons filed complaint, on 03/01/2023 against the de-facto complainant and others. That was enquired in CSR No.1 of 2023. In the complaint, it has been stated that some persons, who are unconnected with Ward-Y, Block-15 claiming right over the property as belongs to Wakf, trespassed into the same and illegally connected with electricity post. In the complaint, only this petitioner and others stated that right from 1981, the



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property belongs to them and having documents. Some of the persons belongs to Muslim religion claim that it belongs to Wakf. Before the Revenue Divisional Officer, no proper document was produced by the above said persons. On the basis of the complaint given by them before the Commissioner, on 26/12/2022, he was granted with police protection. On 01/01/2023, trouble was made by the religious people. Along with the complaint, they have also produced the revenue records, which according to them, standing in their names. Enquiry was undertaken and during the course of enquiry, it was found that in respect of the issue between the parties, O.S No.7 of 2012 and I.A No.332 of 2021 is pending before the Wakf Tribunal and a Writ Petition in WP(MD)No.15353 of 2020 is also pending. Both were advised to work out their remedy in the pending suit and proceedings itself.

8. But later, on 01/01/2023, trouble again arose between them. Police team went to the place of occurrence and advised them to abide by the court orders and asked them not to make any alteration or work in that place. On that account, the above said CSR was closed.

9. Similarly, again complaint was also given by the de-facto complainant party, wherein it has been stated that the property has been demolished by the accused persons. That complaint was also closed. Subsequent to that only, the present occurrence has taken place, on 15/07/2023.



10.No doubt that with regard to the title over the property, dispute exists between them. Both sides claim rival claim over the property. In respect of the above said, a matter is also pending before the Wakk Tribunal. Pending all these matters, and in spite of repeated advise given by the respondent police, it appears that the present occurrence said to have been taken place.

11.The learned Additional Public Prosecutor has also produced documents for the damage caused to the property. It is seen that in the early hours, the above said damage was made.

12.The learned Additional Public Prosecutor would further submit that on coming to know about the occurrence, the police team went to the occurrence spot and before that, demolition was completed. So according to him, because of this issue, religious tension also exists and police picketing has also been arranged. So during the course of investigation, prima facie case has been found out and some of the accused are also absconding.

13.So prima facie, it is seen that damage has been caused to Kabardasthan. The petitioners ought to have work out their remedy through civil process. In- stead of doing that, they have taken the law in their own hands and caused extensive damage. This offence of this nature should not be taken lightly."

So the facts need not be elaborated and suffice to extract the above said observation.



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6. So far as CrI.OP(MD)No.15360 of 20223 is concerned, the learned counsel appearing for the petitioner would submit that he is not involved in the above said occurrence and he was not at all present in the place of occurrence and he already sold the property as Power Agent of his Principal in favour of one Vincent Adaikalaraj, on 02/07/2021. So according to him, he has no right over the property on the date of the alleged occurrence and he has been falsely implicated in this matter.

7. So far as CrI.OP(MD)No.15012 of 2023 is concerned, it was submitted by the petitioner that he is only a practising Advocate in District Court, Trichy. Only at the advise of his Senior, on 15/07/2023, he went to the spot and tried to make compromise between two groups of people. Except that, he is not involved in the above said issue.

8. As mentioned in the earlier order, reading of the FIR clearly indicates the presence of several persons numbering about 40 to 50. They caused extensive damage to Darga and Kabardasthan. The involvement of A1-Ramprakash is clearly mentioned in the FIR. When serious allegation has been made, unless the petitioner is subjected to the custodial interrogation, the truth will not come out.

9. Similarly, the contention of A7/S.Abdulkalam and others is that they went to the spot on the advise of the Senior is not correct on record. One of the police



personnel, who were present in the place of occurrence videographed the occurrence.

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The concerned police personnel is also present before this court and stated that when they went to the place of occurrence already damaged occurrence. In his presence, there were wordy altercation between two groups. So, the contention of the petitioner is not acceptable.

10. So I find no reason to entertain these petitions. Even though, some of the co-accused were arrested and released on regular bail, the above said bail orders will not enure to the benefit of these petitions. The offence of such nature cannot be taken lightly and discretionary power of this court cannot be exercised in favour of the people like these petitioners, who involved in damaging a heinous crime of 100 years old Kabardasthan. The petitioners must surrender before the respondent for custodial interrogation.

11. In the result, both criminal original petitions are **dismissed**.

sd/-

25/08/2023

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/09/2023

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

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- 1 THE SUB INSPECTOR OF POLICE
THILLAI NAGAR POLICE STATION,
TRICHY CITY,
TRICHY DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M.KARTHICK, Advocate (SR-12925[I] dated 29/08/2023)

ORDER
IN

Crl.OP(MD)Nos.15012 and 15360 of 2023

Date :25/08/2023

SS/VRS/07/09/2023/8P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023