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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01.09.2023

PRESENT

The Hon`ble Mr.Justice P. DHANABAL

CRL OP(MD)No.15971 of 2023

Periyasamy

... Petitioner/ Accused No.3

Vs

The State represented by
The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
(Crime No.100 of 2023)

... Respondent/Complainant

For Petitioner : Mr.C.T.Perumal, Advocate

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.100 of 2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A3, who apprehends arrest at the hands of the respondent



police for the offences punishable under Sections 147, 294(b), 353 & 506(ii) IPC in
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Crime No.100 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the Village Administrative Officer. When the defacto complainant was questioning about the encroachment made by the accused persons, they abused the defacto complainant in filthy language. Hence the case.

3.The learned counsel for the petitioner would contend that the petitioner is an innocent person and he has been falsely implicated in this case. The earlier application was dismissed only on the ground that the co-accused are having previous cases and the petitioner herein is not having any previous cases. Hence, he prayed for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the defacto complainant, who is the Village Administrative Officer, was tried to remove the encroachment, the accused persons prevented him and abused him. This is second petition for anticipatory bail and there is no change in circumstances and hence, he objected for granting anticipatory bail to the petitioner. However, he fairly admitted that the petitioner is not having any previous cases.



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5. Heard both side and perused the materials available on record.

6. Considering the rival submissions on either side and considering the fact that already material part of the investigation was completed and also considering the fact that though the earlier petition for anticipatory bail was dismissed, the respondent police failed to secure the accused, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate Court, No.I, Nagercoil on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.



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[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
01/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

TO

- 1 THE JUDICIAL MAGISTRATE NO.I
NAGERCOIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE
RAJAKKAMANGALAM POLICE STATION
KANYAKUMARI DISTRICT.



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

+1 CC to M/s.C.T.PERUMAL, Advocate (SR-13129[I] dated 04/09/2023)

ORDER
IN
CRL OP(MD) No.15971 of 2023
Date :01/09/2023

SS/VR/08/09/2023/5P/6C

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