



CRL OP(MD). No.16583 of 2023

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

Date : 06/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Aamila Sulthana Reeth Ahamed,

2. Mohammed Farook @ Mohamed

... Petitioners/ Accused Nos. 1 & 2

Vs

**State Rep.by
The Inspector of Police,
Sessions Court Police Station
Trichy City.
Crime No.623 of 2023..**

... Respondent/Complainant

P.Padma

**...Petitioner/Intervener
in Crl MP(MD)No. 14015 OF 2023**

**For Petitioner : M/s.B.Jameel Arasu, Advocate for
Mr.Vinayak.S,Advocate.**

**For Respondent : Mrs.M.Aasha,
Government Advocate (Crl.Side)**

For intervenor : Mr. A. Robinson,Advocate

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

**PRAYER :- For Anticipatory Bail in Crime No.623 of 2023 on the file of the
Respondent Police.**

ORDER : The Court made the following order :-



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The petitioners/ Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 448, 380 IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No.623 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners said to have broken the house of the defacto complainant and thrown out the properties belonging to him and also taken away the money, documents and the jewels kept in the box. Hence the case.

3. The learned counsel for the petitioners would contend that the disputed property has been purchased by the petitioners from the land owner. The defacto complainant is the tenant in the property. He would further submit that the petitioners in order to evict the defacto complainant on 03.08.2023 at about 10.00 am forcibly entered into the house and thrown out the properties and articles and also damaged the properties in the house and also suspected the jewels and money kept in the jewel box taken out by the accused persons. Hence, the complaint has been lodged on 17.08.2023 for the offences under Sections 147, 448, 380 IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. He would further submit that the petitioners did not know anything about the occurrence and they are only purchaser of the property. He would further submit



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that without paying the rent to the petitioners, the defacto complainant has given a complaint as against the petitioners and hence, seeking anticipatory bail.

4. The learned counsel appearing for the defacto complainant would submit that the petitioners in order to forcibly evict the defacto complainant entered into the house in the absence of the defacto complainant on 03.08.2023 and damaged the properties and thrown out the property out of the house. Hence, he strongly objected to grant anticipatory bail.

4. The learned Government Advocate (Crl. Side) would submit that based on the complaint given by the defacto complainant CSR No.270 of 2023 was given on 07.08.2023 and thereafter, a case was registered in Crime No.623 of 2023 on 17.08.2023. The petitioners being damaged the properties of the defacto complainant, seeking for dismissal of this petition.

5. On a perusal of the First Information Report it is seen that on 04.08.2023 the defacto complainant gave a complaint before the respondent police which was received in CSR.No.270 of 2023 on 07.08.2023 and thereafter, on 17.08.2023, a case was registered in Crime No.623 of 2023. On reading of the complaint it is seen that the defacto complainant is the tenant in the property and also made an agreement with the owner of the property for purchasing the same. It is alleged that on 01.05.2021 the owner of the property received a sum of Rs.10,00,000/- in the presence of witnesses



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and made sale agreement and subsequently, also received amount in this regard. In these circumstances, without knowledge of the defacto complainant which was sold by the owner to the petitioners on 05.12.2022 and they were informed to the defacto complainant. On 27.07.2023 the defacto complainant's father-in-law died at Madurai. Therefore, they went to Madurai and returned to the place of occurrence on 03.08.2023 and found the house was broke opened and the properties were damaged and also suspected jewels and documents were taken out.

6. Considering the facts and circumstances and also considering the fact that the petitioners alleged that they did not know about the occurrence and that the defacto complainant only suspected they take have taken away the jewels and documenets, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

6.Accordingly, 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, Trichy 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 learned Magistrate concerned and on further condition that:

[a] the sureties shall affix their photographs and left thumb impression in the

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surety bond and the Magistrate/concerned court 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 once in a week i.e., on every Monday at 10.30 am until further orders.

[c] the petitioners shall not tamper with 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 petitioner 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/-
06/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TRP
TO

- 1 THE JUDICIAL MAGISTRATE NO.II, TRICHY.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE
SESSIONS COURT POLICE STATION, TRICHY CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.ROBINSON, Advocate (SR-14764[I] dated 06/10/2023)

+1 CC to M/s.S.VINAYAK, Advocate (SR-14867[I] dated 09/10/2023)

ORDER
IN

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Date :06/10/2023

PKP/DD/SAR- /18.10.2023/ 6P/ 7C

Madurai Bench of Madras High Court is issuing certified
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