



CRL OP(MD). No.17358 of 2023

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

Date : 13/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.17358 of 2023

Geya Sharif

... Petitioner/ Accused No.1

Vs

1. The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
Crime No.268 of 2023..

2. Dhamayanthi Malar

... Respondents/Complainants

(R2 is Suo-Motu Impleaded as Per order of this Court
dated 27.09.2023 in Crl OP(MD).17358 of 2023).

For Petitioner : M/s.Narayanakumar K.P.,
Advocate.

For 1st Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.S.Pandiaraj, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.268 of 2023 on the file of the Respondent Police.



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ORDER: The Court made the following order :-

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The petitioner/ A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 468,471,294(b),385, 352, 506(ii) of IPC and Section 4 of TNPHW Act in Crime No.268 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the owner of DMR complex which includes house. The defacto complainant entered into rental agreement with the petitioner on 01.09.2023 and Rs.50,000/-was transferred by the petitioner to the bank account of the defacto complainant as advance. Whiles, the defacto complainant sent one Nambirajan to the above house for plumbing work it came to light that the petitioner has occupied another house also which is not included in the agreement. Thereafter the defacto complainant asked to petitioner to vacate the house and gave complaint to the police and during enquiry the petitioner and the second accused abused the defacto complainant using filthy language and also threatened with dire consequences, hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit now all the houses have been handed over the defacto complainant, hence he seeks anticipatory to the petitioner.



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4.The learned Government Advocate(Crl.Side) appearing for the respondent submitted that due to some dispute in vacating the house property the petitioner and the second accused abused the defacto complainant using filthy language and also threatened with dire consequences.

5. It is seen that the alleged houses have been handed over to the defacto complainant.

6.Taking into consideration the principles stated by the Honourable Supreme Court in *Gurubaksh Singh Sibbia Etc., vs. State of Punjab* reported in 1980 AIR 1632 and *Lal Kamlendra Pratap Singh vs. State of Uttar Pradesh and others* reported in (2009)4 SCC 437 and *Joginder Kumar vs. State of U.P. and others* reported in (1994)4 SCC 260 and taking into consideration the origine of crime, it is seen that the offence alleged as against the petitioner is not a case of henious crime. Further the petitioner is having permanent residents at Tirunelveli District. Hence the principles stated in *Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar* reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged



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nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. 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 learned Judicial Magistrate No.III, Tirunelveli on condition that the petitioner shall execute **own** bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner shall report before the trial Court as and when required for the purpose of interrogation.

[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/-
13/10/2023

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

AAV
TO

- 1 THE JUDICIAL MAGISTRATE NO.III
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 3 THE INSPECTOR OF POLICE
TIRUNELVELI TALUK POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-15202[I] dated 16/10/2023)

+1 CC to M/s.J.YESU SUB7ANATH, Advocate (SR-15178[I] dated 13/10/2023)

ORDER

IN

CRL OP(MD) No.17358 of 2023

Date :13/10/2023

SS/VRS/SAR- /20/10/2023/6P/7C

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