



CRL OP(MD). No.18232 of 2023

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

Date : 12/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18232 of 2023

1. Petchiyammal

2. M.Poomari

3. Neerathilingam

4. Mahesh

... Petitioners / Accused No.1 to 3 & 5

Vs

The Sub Inspector of Police,
Keelarajakularaman Police Station,
Viruthunagar District.
(Crime No.137/2023).

... Respondent / Complainant

For Petitioners : M/s.Pandi Dorai J, Advocate.
For Respondent : Mr.R.Sureshkumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.137/2023 on the file of the Respondent Police.



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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, 427, 294(b) and 506(2) IPC in Crime No.137 of 2023, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that due to land dispute the petitioners herein trespassed into the house of the defacto complainant by breaking and entering and when the same was questioned by thd defacto complainant, they have abused him in filthy language and also caused damages worth about Rs.2,00,000/-. Hence, the case.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case and hence, seeks anticipatory bail.

4.The learned Government Advocate (crl. Side) appearing for the respondent police would submit that there was a civil dispute between the parties and that the petitioners said to have trespassed into the house of the defacto complainant by breaking and entering and they have also abused him in filthy language and also caused damages. He would further submit that the 3rd petitioner / A3 is having 11



previous cases and the investigation of the case is pending.

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5. On perusal of the FIR, it is noticed that due to land dispute there was a quarrel between them.

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 Kamendra 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, this Court is of the considered view that the alleged offence against the petitioners are not a case of heinous crime. Further, the petitioners are having permanent resident at Virudhunagar District and the origin of the crime is civil dispute. In this circumstances, 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 to be encouraged 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, I am inclined to grant anticipatory bail to the petitioners 1, 2 and 4. Accordingly, the petitioners 1, 2 and 4 are ordered to be



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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, Rajapalayam, Virudhunagar District on condition that each of the petitioners 1, 2 and 4 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 petitioners 1, 2 and 4 shall report before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioners 1, 2 and 4 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners 1, 2 and 4 shall not abscond either during investigation or trial.

[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 petitioners 1, 2 and 4 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].



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

8. Considering the serious nature of allegations made against the third petitioner / M.Neerathalingam / A3, this Criminal Original Petition stands dismissed as against the third petitioner.

sd/-
12/10/2023

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

TRP

To

1.The Judicial Magistrate,
Rajapalayam, Virudhunagar District.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

3.The Sub-Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.PANDI DORAI, Advocate (SR-15120[I] dated 13/10/2023)



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ORDER

IN

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Date :12/10/2023

ED/JGB/SAR- (17/10/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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