



CRL OP(MD). No.18512 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Esakkiyappan,
2. Nachiyar,

... Petitioners/ Accused Nos. 1 & 2

Vs

State Rep.by
The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
Crime No.137/2023..

... Respondent/ Complainant

For Petitioners : M/s.Maheswaran R,Advocate.

For Respondent : Mrs.M.Aasha,
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.

ORDER : The Court made the following order :-

The petitioners/ A1 and A2, who apprehend arrest at the hands of the respondent

police for the offences punishable under Sections 294(b),323,341,427,506(ii) of IPC in

<https://www.mhc.tn.gov.in/judis>



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Crime No.137 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners along with other accused waylaid the defacto complainant, assaulted him and also threatened with dire consequences. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and a false case has been foisted against them. Therefore, he prayed for anticipatory bail to the petitioners.

4.The Government Advocate(Crl.Side) appearing for the respondent would submit that petitioners along with other accused waylaid the defacto complainant, assaulted him and also threatened with dire consequences, hence she objected to grant anticipatory bail to the petitioners. However he fairly concedes that no one sustained injuries in the said occurrence.

5. On perusal of the FIR, it is noticed no one sustained injuries in the said occurrence.

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

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offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are 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 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, this Court is inclined to grant anticipatory bail to the petitioners. 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 is made ready, before the learned Judicial Magistrate No.II, Nagercoil on condition that the petitioners 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 shall report before the trial Court on receipt of summons

[b] the petitioners shall not tamper with evidence or witness either during



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3 THE INSPECTOR OF POLICE
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-15228[I] dated 16/10/2023)

ORDER
IN
CRL OP(MD) No.18512 of 2023
Date :16/10/2023

PKP/VRS/SAR- /19.10.2023/ 5P/ 6C

Madurai Bench of Madras High Court is issuing certified
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