



CRL OP(MD). No.18805 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18805 of 2023

1. Selvaganapathi

2. Palsamy

3. Malaichamy

4. Palkarasu,

5. Pavithra

6. Malaiselvi

7. Raakku

8. Jayalakshmi

9. Pichaiammal

10. Irulayee

... Petitioners/ Accused Nos.16,19,22 to 24, 26 to 30

Vs

The State represented by
The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
Crime No. 61/2023.

... Respondent/Complainant



CRL OP(MD). No.18805 of 2023

WEB COPY

For Petitioner : Mr.B.Muneeswaran,
Advocate.
For Respondent : Mr.Rms.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No. 61 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 143, 147, 323, 324, 336 and 427 IPC r/w. Section 4 of TNPHW Act in Crime No.61 of 2023, in Crime No.61 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that there was a dispute between the family members with regard to the worship of village temple and that the petitioners herein said to have attacked the defacto complainant with deadly weapons and also damaged the houses. Hence, the case.

3.The learned counsel appearing for the petitioners would submit 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 he seeks anticipatory to the petitioners.



WEB COPY

4.The learned Additional Public Prosecutor appearing for the respondent submitted that it is a case and case in counter and the injured was discharged from the hospital. He would further submit that the investigation of the case is pending and hence, strongly objected to grant anticipatory bail to the petitioners.

5. On perusal of the FIR, it is noticed that there was a family dispute between the parties with regard to the worship of the temple.

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 origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners is having permanent residents at Virudhunagar 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



CRL OP(MD). No.18805 of 2023

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 made ready, before the learned Judicial Magistrate, Thiruchuli, Virudhunagar District on condition that the petitioners shall execute own bonds 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 appear before the trial Court on receipt of summons as directed by the trial Court.

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



CRL OP(MD). No.18805 of 2023

WEB COPY

[c] the petitioners 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 petitioners 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].

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

sd/-
03/11/2023

/ TRUE COPY /

/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP

TO

1 THE JUDICIAL MAGISTRATE
THIRUCHULI, VIRUDHUNAGAR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



CRL OP(MD). No.18805 of 2023

3 THE INSPECTOR OF POLICE

VEERACHOLAN POLICE STATION, VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.B.MUNEESWARAN, Advocate (SR-15912[I] dated 03/11/2023)

ORDER

IN

CRL OP(MD) No.18805 of 2023

Date :03/11/2023

SS/DD/SAR- /17/11/2023/6P/6C

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