



CRL OP(MD). No.18813 of 2023

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

Date : 19/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Mojin,

2. Raj,

... Petitioners/ Accused Nos 1 & 2

Vs

**State Rep.by
The Inspector of Police,
Thuckalay Police Station,
Kanniyakumari District.
Cr.No.425/2023.**

... Respondent/Complainant

For Petitioners : M/s.Aravinthan.G,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.425/2023 on the file of the Respondent police.

ORDER : The Court made the following order :-

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

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police for the offences punishable under Sections 294(b), 324 and 506(ii) of IPC, in Crime No.425 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that due to civil dispute the petitioners and other have thrown the stones and attacked the defacto complainant using iron rod and further the second accused has kicked the defacto complainant 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, hence he seek anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners and other have thrown the stones and attacked the defacto complainant using iron rod and further the second accused has kicked the defacto complainant and also threatened with dire consequences hence she objected to grant anticipatory bail to the petitioners

5.Taking into consideration the fact that injured has been discharged from the hospital and 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

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reported in (1994)4 SCC 260 and taking into consideration the origine of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are having permanent residents at Kanyakumari 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 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, they can safely be released on their personal bond.

6.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 No.I, Padmanabhapuram, Kanyakumari 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 affix his photograph and Left Thumb Impression in the

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bonds and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[b] the petitioners shall report before the trial Court on receipt of summons

[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 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].

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

sd/-
19/10/2023

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

AAV



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TO
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- 1 THE JUDICIAL MAGISTRATE NO.I
PADMANABHAPURAM, KANYAKUMARI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL
- 3 THE INSPECTOR OF POLICE
THUCKALAY POLICE STATION,
KANNIYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-15465[I] dated 19/10/2023)

ORDER
IN
CRL OP(MD) No.18813 of 2023
Date :19/10/2023

PKP/VRS/SAR- /26.10.2023/ 5P/6C

Madurai Bench of Madras High Court is issuing certified
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