



CRL OP(MD). No.19191 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Karthi

... Petitioners/ Accused rank not known

Vs

The State represented by
The Inspector of Police,
Kk Nagar Police Station,
Trichy City.
(Crime No.1388/2023)..

... Respondent/Complainant

For Petitioner : Mr.R.Anand, Advocate
for M/s.Rajarajan M,
Advocate.

For Respondent : Mr.Rms.Sethuraman,
Additional Public Prosecutor

For Intervenor : Mr.M.R.Sreenivasan, Advocate
for Mr.C.Deepak, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.1388/2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 323, 353, 506(i) and 379 IPC in Crime No.1388 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that one Ranganathan availed business loan from the Canara Bank, Puthur Branch Trichy, for which the petitioner's property given as collateral security. Since the said Renganathan failed to repay his bank loan, the Bank initiated SARFAESI proceedings against Ranganathan property as well as the property of the petitioner and properties were subjected to auction and based on the same, on 18.10.2023 the authorised went to petitioner property to take physical possession. At that time, the accused persons have assaulted the officials and caused injury to him. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that with regard to SARfAESI proceedings for payment of further payment to the Bank, the petitioners approached this Court and periodically extended the time for payment and as per the direction of this Court, partial payment has been made and finally



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this Court on 17.10.2023 recording the 1st instalment of Two Crores, then listed the case ordered to be posted on 09.11.2023. In such situation, without disclosing the fact the Bank Manager, approached the District Collector and obtained order on 28.05.2023 for attachment. Being the Bank Manager knowing fully well the direction of this Court took the accused persons to the place for attachment. In that circumstances, there is a wordy quarrel arose between them and they have have caused injuries to the petitioner and hence, seeks anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that now all the injured persons were discharged from the hospital.

5. The learned counsel for the intervenor represented that this Court has posted the case for further proceedings on 09.11.2023, in such circumstances, by obtaining an order from the District Collector, the Bank Manager went to the spot along with his men for taking the possession and also assaulted the petitioner.

6. On a perusal of the records it is seen that in pursuance of the SURFAESI proceedings this petitioner approached this Court by filing a petition seeking time to payment and periodically, it was not extended and finally, the Division Bench of this



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Court, vide order, dated 17.10.2023 recording the 1st instalment of Two Crores, then listed the case ordered to be posted on 09.11.2023. Now, the case is pending before the Division Bench. In such circumstances, the Bank Manager went to the spot for taking possession along with his men and also caused injuries to the petitioner, in spite of this Court extended time for payment.

7. Considering the nature of allegations and also considering the fact that the case is posted on 09.11.2023 for further proceedings and also 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 Thiruchirappallai 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



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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.

8.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.II, Trichy, 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 appear before the trial Court on receipt of summons as directed by the trial Court.

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



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[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 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/-
20/10/2023

/ TRUE COPY /

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

TRP

TO

1 THE JUDICIAL MAGISTRATE NO.II
TRICHY.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.



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3 THE INSPECTOR OF POLICE
KK NAGAR POLICE STATION, TRICHY CITY.

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

+1 CC to M/s.M.RAJARAJAN, Advocate (SR-15550[I] dated 20/10/2023)

ORDER
IN
CRL OP(MD) No.19191 of 2023
Date :20/10/2023

SS/JGB/SAR- /27/10/2023/7P/6C

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