



CRL OP(MD). No.19434 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 01/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1.Pitchai  
2.P.Petchi

... Petitioners/ A2 and A3

Vs

The State rep.by  
The Inspector of Police,  
Vikramangalam Police Station,  
Madurai District.  
(Crime No.168 of 2023).

... Respondent/Complainant

For Petitioners : Mr.R.ANAND  
Advocate.

For Respondent : Mr.R.SURESH KUMAR,  
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in Crime No. 168 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/ A2 to A3, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 147, 148, 436 and 506(ii) of IPC in Crime No.168 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the first petitioner is the father-in-law and



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the second petitioner is the mother-in-law of the defacto complainant and the first accused is the brother of the defacto complainant's husband. Her husband died one year back. The defacto complainant's mother in law always used to demand the milk depot which was owned by the defacto complainant's husband and presently which is maintained by the defacto complainant. While so, on 14.10.2023, at about 10.00 a.m, all the accused persons came there and threatened the defacto complainant and on 16.10.2023 at 12.30 a.m, the accused persons said to have fired the house and the two wheeler of the deceased. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are the innocent persons and they have not committed any offence as alleged by the prosecution. Hence, he prays for anticipatory bail to the petitioners.

4.The learned Government Advocate (criminal side) appearing for the respondent police would submit that the accused persons, by locking the defacto complainant's house outside fired and as a result of which, the two wheeler and the portion of the house caught fire. On hearing her cue and cry, the neighbours came and rescued her and thereupon, she was taken to hospital. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

5.Heard both sides and perused the materials available on the record.

6. A perusal of the First Information Report, it is noticed that there is civil



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dispute between the petitioners and the defacto complainant. In this regard, the accused persons entered into the defacto complainant's house and damaged the house and two wheeler, which are worth about Rs.3,50,000/-. Further, a perusal of the Observation Mahazar, it is noticed that there is no such damage to the house and they damaged only two wheeler. Therefore, considering the facts and circumstances of the case and taking into consideration the principle 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 and taking into consideration the origin of crime, it is seen that the alleged offence against the petitioners is not a case of heinous crime. Further, the petitioners are having permanent resident at Madurai 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, 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



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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, Usilampatti, Madurai District on condition that the petitioners shall execute a 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 affix their photographs and Left Thumb Impression in the surety bond 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 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



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in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560].

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

sd/-  
01/11/2023

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

SKN  
TO  
1 THE JUDICIAL MAGISTRATE NO.II,  
USILAMPATTI, MADURAI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,  
VIKRAMANGALAM POLICE STATION,  
MADURAI DISTRICT.

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

ORDER  
IN  
CRL OP(MD) No.19434 of 2023  
Date :01/11/2023

SA/VRS/SAR. /03.11.2023/5P/5C

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