



CRL OP(MD). No.19612 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.19612 of 2023

1. Vishnu Sankar
2. Ganesh Kumar

... Petitioners/ Accused Nos.1 & 2

Vs

State Rep.by
The Sub-Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
Crime No. 426 of 2023.

... Respondent/Complainant

For Petitioners : Mr.M.Jothi Basu, Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.426 of 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, 427 and 506

(ii) of IPC in Crime No.426 of 2023 on the file of the respondent police, seek

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



CRL OP(MD). No.19612 of 2023

anticipatory bail.

WEB COPY

2.The case of the prosecution is that due to civil dispute, the petitioners abused the de-facto complainant in filthy language and caused damage to the name board and also threatened him with dire consequences. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would further submit that counter case in Crime No.425 of 2023 is pending against the de-facto complainant. Hence, he seeks anticipatory bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that due to civil dispute the above said occurrence has been occurred and it is a case of case in counter. Hence, he opposed to grant anticipatory bail to the petitioners.

5.Taking note of the facts and circumstances of the case and also the facts that it is a counter case and civil dispute 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 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 offence alleged as against the petitioners is not



CRL OP(MD). No.19612 of 2023

WEB COPY

a case of heinous crime. Further the petitioners are 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 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.

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 Court, Rajapalayam, Virudhunagar District, 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



CRL OP(MD). No.19612 of 2023

investigation or trial.

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 abscond, 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.

SJI
TO

1 THE JUDICIAL MAGISTRATE, RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

3 THE INSPECTOR OF POLICE, RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

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



CRL OP(MD). No.19612 of 2023

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-15924[I] dated 03/11/2023)

ORDER

IN

CRL OP(MD) No.19612 of 2023

Date :03/11/2023

RS/VR/SAR-(20.11.2023) 5P 6C

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