



CRL OP(MD). No.19948 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19948 of 2023

Savarkar,

... Petitioner/ Accused No.1

Vs

State rep.by
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.216/2023).

... Respondent/ Complainant

For Petitioner : Mr.V.Kathirvelu,
senior counsel for
K. Prabhu, 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.216/2023 on the file of the Respondent Police.



CRL OP(MD). No.19948 of 2023

WLB COPY ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 447, 294(b), 323, 379(NP) and 506 (ii) IPC r/w. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.216 of 2023, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that due to land dispute, the petitioner herein and other accused have trespassed into disputed property and attacked the defacto complainant and also threatened him with dire consequences. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and hence, seeks anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that it is a second anticipatory bail petition and the earlier petition filed by the petitioner was dismissed by this Court on 11.10.2023 and it is a case and



CRL OP(MD). No.19948 of 2023

counter and the counter case has been registered in Crime No.215 of 2023. He would further submit that the investigation of the case is pending.

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5. On perusal of both the FIR, it is noticed that it is a land dispute between the parties and this occurrence took place with regard to the previous case. It is also seen that with regard to the previous cases, the petitioner herein was acquitted in 5 cases and the remaining three cases also registered for the same offence.

6. Considering the nature of allegations 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 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, this Court is of the considered view that the alleged offence against the petitioner is not a case of heinous crime. Further, the petitioner is having permanent resident at Kanyakumari District and the origin of the crime is land dispute. In this circumstances, 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



CRL OP(MD). No.19948 of 2023

WEB COPY

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, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No. I, Kuzhithurai, Kanniyakumari District 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.

[c] the petitioner shall not abscond either during investigation or trial.



CRL OP(MD). No.19948 of 2023

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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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
15/11/2023

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

TRP

TO

1. The Judicial Magistrate No. I, Kuzhithurai, Kanniyakumari District.
2. Do through the Chief Judicial Magistrate,
Kanniyakumari District at Nagercoil.
3. The Inspector of Police,
Kaliyakkavilai Police Station,
Kanniyakumari District.



CRL OP(MD). No.19948 of 2023

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to K. PRABHU Advocate SR.No.51412(F)

ORDER
IN
CRL OP(MD) No.19948 of 2023
Date :15/11/2023

SSA/DD/(24.11.2023)/ 6P/ 6C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.