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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22604 of 2022

1.Rajangam
2.Muthulakshmi
3.Amsavalli
4.Prabhu
5.Karthi

... Petitioners/Accused No.1 to 5

Vs.

State rep.by
The Inspector of Police,
Sindupatti Police Station,
Madurai District
(Crime No.207 of 2022)

... Respondent/Complainant

P.Selvakumar

... Petitioner/Intervener
in CRL MP(MD).144/2023 in CRL OP(MD).22604/2022

For Petitioners : Mr.Haroon Rasheed, Advocate
For Respondent : Mr.A.Albert James
Government Advocate (Crl.Side)
For Intervenor : Mr.S.P.Prabhakaran, Advocate

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

PRAYER :-

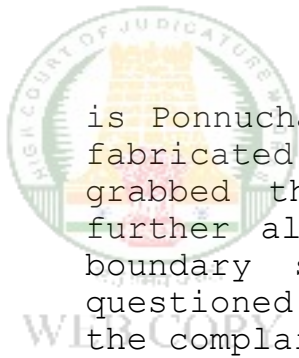
For Anticipatory Bail in Crime No.207 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/Accused 1 to 5, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 147, 294(b), 447, 427, 406, 420, 468, 471 and 506(i) I.P.C in Crime No.207 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant Selvakumar is that the father's name of the accused 1 and 2 is Ponnuchamy Thevar and the father's name of the defacto complainant

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is Ponnuchamy Teacher and taking advantage of the same, the accused fabricated false patta by including the survey numbers and had grabbed the property belonging to the defacto complainant. The further allegation is that the accused have caused damage to the boundary stones to the tune of Rs.10,000/- and when it was questioned by the defacto complainant, they have abused him. Hence, the complaint.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and a false complaint has been given against them. He would submit that the first and second accused are siblings and the third accused is the wife of the first accused and the fourth and fifth accused are the son of the first accused. The property is an ancestral property of the petitioners as well as the defacto complainant and there was property dispute between both families since long back. He would also submit that the defacto complainant's brother one Raja, who is an Advocate by using his influence, has helped him to lodge a false complaint before the respondent police. It is his further submission that the defacto complainant has earlier filed O.S.No.3 of 2021 on the file of the District Munsif cum Judicial Magistrate, Usilampatti and other civil litigations are also pending between the parties and the case of the prosecution is borne out by documents. The petitioners are ready to abide by any stringent condition imposed by this Court and to co-operate with the respondent for investigation.

4.The learned Government Advocate (Crl.Side) submitted that the petitioners and the defacto complainant are relatives and the accused have fabricated the false documents and also included the survey numbers belonging to the defacto complainant and entered upon the property and caused damages to the boundary stones and also abused the defacto complainant and threatened him. Hence, he prays to dismiss this application.

5.The learned counsel for the intervenor would vehemently oppose for grant of anticipatory bail by stating that the petitioner by fabrication grabbed the property belonging to the defacto complainant and when the same was questioned by the defacto complainant, they have also abused him.

6.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8.Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the



date of receipt of a copy of this order, before the learned **Judicial Magistrate, Thirumanagalam**, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum 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 and the sureties 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 respondent Police Station everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation;

[c] the petitioners shall not tamper with the 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]**; and;

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

sd/-

04/01/2023

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

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TO

- 1 THE JUDICIAL MAGISTRATE, THIRUMANGALAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE, SINDUPATTI POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.22604 of 2022

Date :04/01/2023

RS/VR/SAR.1(24.01.2023) 3P-5C

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