



CRL OP(MD). No.20617 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 12/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. T.Ani @ Anish

2. R.Rajesh

... Petitioners / Accused No.1&2

Vs

The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
(Crime No.229/2023).

... Respondent/Complainant

For Petitioners : Anand R., 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.229/2023 on the file of the Respondent Police.

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 294(b), 323, 506(i) and 379 IPC in Crime No.229 of 2023 on the file of the respondent police, seek anticipatory bail.



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2. The case of the prosecution is that the defacto complainant is a ward member. on 07.10.2023 at 10.00 p.m, he was informed that the accused persons used to drink liquor on road during the night hours and make disturbance to the public. On the basis of the information, he warned the accused in many times. Due to that enmity, when the defacto complainant was coming near puliyirangi junction in his motor cycle bearing No.TN-75-AQ-1830, the petitioners, who were standing near a Auto Rickshaw waylaid the defacto complainant and abused him in using filthy language and assaulted him with hands & legs and caused injuries. On knowing the same, one Sivakumar, who is the another ward member rushed to the spot. The accused persons also attacked him and took away his mobile phone. Hence, the case.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent and they have not been committed any offence as alleged by the prosecution. He would further submit that this is the second anticipatory bail petition. Earlier petition filed by the petitioners in Cr.OP(MD)No.18531 of 2023 was dismissed by this Court on 19.10.2023. The petitioners are Auto drivers. The defacto complainant is a Practicing Advocate at Padmanabhapuram Bar. Some illegalities committed by the defacto complainant was questioned by a sect of people in that locality. Hence, the defacto complainant and one Sivakumar, who is another ward



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member having enmity with that people. The defacto complainant and the said Sivakumar came to the Auto Rickshaw Stand and took pictures and videos of the Auto Rickshaws. When the same was questioned by the accused. Thereby, the defacto complainant lodged a complaint against the accused persons. Hence, he seeks anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that due to previous enmity, the petitioners herein have attacked the defacto complainant who is practising as Advocate and also a Ward Member of Kulasekaram Town Panchyat and caused injuries. Further, they have taken away the mobile phone of one Sivakumar, who is the another ward member worth about Rs.25,000/-. He would further submit that the investigation is not yet completed and no previous case is pending against the petitioners.

5. Considering the nature of allegations levelled as against the petitioners 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 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 offence alleged as against the petitioners are not a case of heinous crime. Further the



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petitioners are having permanent residence at Kanyakumari 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.

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 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, Valliyur, Tirunelveli District, on condition that the petitioners shall execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 his photograph 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 his identity.



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

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

sd/-
12/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

To

1.The Judicial Magistrate No.I,
Valliyur, Tirunelveli District.



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2.Do through the Chief Judicial Magistrate,
Tirunelveli District.

3.The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

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

+1 CC to M/s.R.ANAND, Advocate (SR-17618[I] dated 12/12/2023)

ORDER
IN

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Date :12/12/2023

ED/ DD /SAR- (26/12/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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