



CRL OP(MD)No.20983 of 2023

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

Date : 22.11.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM
CRL OP(MD)No.20983 of 2023

1.K.S.Palanichamy

2.P.Bagiyalakshni

... Petitioners / Accused No.1 and 2

Vs

The Inspector of Police,
Kumili Police Station,
Theni District.
(In Crime No.91 of 2023)

... Respondent / Complainant

For Petitioners : Mr.N.Ananthapadmanaban, Senior Counsel
for APN LawnAssociates

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.91 of 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 447, 427, 454 and 379 IPC in Crime No.91 of 2023, seek anticipatory bail.



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2.The case of the prosecution is that a case under Section 5 of TANPID Act has been registered against the petitioners and Government had passed a G.O.No.989, Home (Police XIX)Department dated 24.12.2012 attaching all the properties of the petitioners. The competent authority ie., DRO, Madurai has filed a petition under Section 9 of the TANPID Act before the Special Court for TANPID Act Cases, Madurai for making the attachment absolute in O.A.No.9 of 2020 in C.C.No.11 of 2013. Pending disposal of the case, the petitioners entered into the properties and doing agricultural operations. Hence the case.

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

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioners cut totally 2200 trees. He would further submit that the investigation in this case is not yet completed.

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



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(1994)4 SCC 260 and taking into consideration the origin of crime, it is seen that the offence alleged as against the petitioners is not a case of heinous crime. Further the petitioners are having permanent residence 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 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 is made ready, before the learned Judicial Magistrate, Uthamapalayam 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 his photograph and Left Thumb Impression in the



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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 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/-
22/11/2023

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

GNS



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1.The Judicial Magistrate,
Uthamapalaym.

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

3.The Inspector of Police,
Kumili Police Station,
Theni District.

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

+1 CC to M/s.M/S.APN LAW ASSOCIATES, Advocate (SR-16715[I] dated
23/11/2023)

ORDER
IN

CRL OP(MD) No.20983 of 2023

Date :22/11/2023

ED/SKN/SAR- (08/12/2023) 5P / 6C

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