



CRL OP(MD). No.22038 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Rajesh @ Rajesh Kumar,

2. Amuthan,

... Petitioners/ Accused No.1 & 2

Vs

**The Inspector of Police,
Kollencode Police Station,
Kanyakumari District.
Crime No. 140 of 2023.**

... Respondent/Complainant

For Petitioner : M/s. Dennis Joe.M, 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. 140 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-



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The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 341, 323, 324 and 506(2) IPC in Crime No.140 of 2023, seek anticipatory bail.

2.The case of the prosecution is that on 11.11.2023, at about 11.00 p.m, when the defacto complainant waiting for his owner for taking food on the road side, the petitioners said to have abused the defacto complainant in filthy language and also attacked him with iron rod & wooden log and caused injuries to him. 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. He would further submit that it is a case and case in counter. Already complaint has been lodged against the defacto complainant and other accused. Hence, he seeks anticipatory bail.

4.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that it is a case and case in counter and the injured person has already been discharged from the hospital and no previous case is pending against

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



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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 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 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 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



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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 No.2, Kuzhithurai. 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 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.



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[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/-
07/12/2023

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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.II KUZHITHURAI.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL
- 3 THE INSPECTOR OF POLICE
KOLLENCODE POLICE STATION,
KANYAKUMARI DISTRICT



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

+1 CC to M/s.M.DENNIS JOE, Advocate (SR-17427[I] dated 07/12/2023)

ORDER
IN

CRL OP(MD) No.22038 of 2023

Date :07/12/2023

PKP/JGB/SAR- /13.12.2023/ 6P/6C

Madurai Bench of Madras High Court is issuing certified
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