



CRL OP(MD). No.22237 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/12/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

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1. Alexander,

2. Raju,

... Petitioners/ Accused 1 & 2

Vs

The Sub Inspector of Police,
Kollencode Police Station,
Kanyakumari District,
Crime No.144/2023.

... Respondent/Complainant

For Petitioners : Mr.B.MICHEAL SEBASTIN,
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.144/2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners / accused, who apprehend at the hands of the respondent police for the offences punishable under Sections 341, 294(b), 323 and 506(2) IPC in Crime No.144 of 2023 on the file of the respondent police, seek anticipatory bail.



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2. The case of the prosecution is that due to previous motive, the petitioners herein have attacked the defacto complainant with hands and also abused him in filthy language. Hence, the case.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case and hence he seeks anticipatory to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that now, the injured was discharged from the hospital and the investigation of the case is pending.

5. On perusal of the FIR, it is noticed that there was a previous motive between the parties.

6. 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 is not a case of heinous crime. Further the petitioners is having permanent residents at Kanniyakumari District. Hence the



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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.

7. 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 No.II, Kuzhithurai, on condition that the petitioners shall execute own bonds 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 appear before the trial Court on receipt of summons as directed by the trial Court.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.



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

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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 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].

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

sd/-
11/12/2023

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

TRP
TO

1 THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE SUB INSPECTOR OF POLICE,
KOLLENCODE POLICE STATION,
KANYAKUMARI DISTRICT.



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

ORDER
IN
CRL OP(MD) No.22237 of 2023
Date :11/12/2023

SA/JGB/SAR. /14.12.2023/5P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.