



CRL OP(MD) No.22555 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.12.2023

PRESENT

The Hon`ble MR JUSTICE V.SIVAGNANAM

CRL OP(MD)No.22555 of 2023

G.Palanichamy Nadar

... Petitioner/ Accued No. 2

Vs

**The Sub Inspector of Police,
Dhalaivaipuram Police Station,
Virudhunagar District.
(Crime No.317 of 2023)**

... Respondent/ Complainant

S.Thangavel

**... Petitioner/Intervenor/ Defacto-Complainant
(in CrI.M.P(MD) No.17854 of 2023
in CrI.O.P(MD) No.22555 of 2023)**

For Petitioner

**: Mr.M.Muthu Kavitha,
Advocate**

For Respondent

**: Mr.RMS.Sethuraman,
Additional Public Prosecutor**

For Intervenor

: Mr.D.Rajaboopathy

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

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



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PRAYER :-

For Anticipatory Bail in Crime No.317 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 323, 427, 506(i)IPC in Crime No.317 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioners built a house nearby the defacto complainant's house. They demolished the house of the defacto complainant by using JCB. When the same was questioned by the defacto complainant, the accused persons abused him in filthy language. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. Hence, he seeks anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent



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police would submit that the investigation is pending.

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5. 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 petitioner is not a case of heinous crime. Further the petitioner is having permanent residence at Virudhunagar 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 petitioner on condition that the petitioner shall deposit a sum of Rs.75,000/- (Rupees



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Seventy Five Thousand only) to the credit of Cr.No.317 of 2023 before the learned Judicial Magistrate, Rajapalayam, within a period of two weeks from the date of receipt of a copy of this order. After such deposit, the learned Magistrate shall return the deposited amount to the defacto complainant, without notice to the petitioner herein.

7.On such deposit, the petitioner is 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, Rajapalayam on condition that the petitioner 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 petitioner 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 petitioner shall report before the trial Court on summons.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
15/12/2023

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/ 01/2024
Sub-Assistant Registrar
(C.S - I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gns



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1.The Judicial Magistrate,
Rajapalayam.

2. Do through the Chief Judicial Magistrate , Virudhunagar @ Sirvilliputhur.

.3.The Sub Inspector of Police,
Dhalaivaipuram Police Station,
Virudhunagar District.

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

+1. CC to K.MUTHU GANESA PANDIAN Advocate SR.No.17847(I) dt.15.12.2023

+1. CC to D.RAJABOOPATHY Advocate SR.No.17825(I) dt.15.12.2023

ORDER

IN

CRL OP(MD) No.22555 of 2023

Date :15/12/2023



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AMS/VR/29.12.2023 7P 7C

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