



CRL OP(MD). No.23259 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. B.Duraipandi
2. D.Rehka
3. V.Vijaya

... Petitioners/ Accused Rank Not Known

Vs

The Inspector of Police,
S.S.Kottai Police Station,
Sivagangai District.
Cr No. 70/2023

... Respondent/Complainant

For Petitioners : M/s.Chandrabose.M, Advocate.
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.70 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/ Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 336 IPC and Section 4 of

Tamil Nadu Prohibition of Harassment of Woman Act, in Crime No.70 of 2023 on the



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file of the respondent police, seeks anticipatory bail.

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2.The case of the prosecution is that due to wordy quarrel, the petitioners herein have attacked the defacto complainant 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 Additional Public Prosecutor appearing for the respondent would submit that it is a case and counter case and the the injured was discharged from the hospital and the investigation of the case is pending.

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 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 Sivagangai District and the origin of the crime is wordy quarrel. Hence the principles stated in Hussainara Khatoon & Ors



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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, (*)Singampunari 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/-
21/12/2023

(*)Amended as per Order of the Court
dt.18.01.2024 in CrI.MP(MD).429/2024 in
CrI.OP(MD).23259/2023 BY MDII.

Further time is extended for a period of two
weeks from the date of receipt of copy of
this order.

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/02/2024
Sub-Assistant Registrar (C.S.I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP
TO
TO BE SUBSTITUTED WITH THE ORDER DT.21/12/2023 ALREADY
DESPATCHED

1 THE JUDICIAL MAGISTRATE, THIRUPATHUR.



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2 THE JUDICIAL MAGISTRATE, SINGAMPUNARI.

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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.

4 THE INSPECTOR OF POLICE, S.S.KOTTAI POLICE STATION,
SIVAGANGAI DISTRICT.

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

+1 CC Mr.M.CHANDRABOSE, Advocate SR.No.844 (I) Dt.19/01/2024

ORDER
IN

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Date :21/12/2023

RS/JGB/SAR-(03.01.2024) 5P 5C

INDU

SA/GS/SAR-(01.02.2024) 5P 7C