



Crl.O.P.(MD) No.23521 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23521 of 2023

Shahul Hameed

... Petitioner/ Accused No.2

Vs

State Rep.by  
The Inspector of Police,  
Eruvadi Police Station,  
Tirunelveli District.  
(Crime No.265 of 2023)

... Respondent/ Complainant

For Petitioner : Mr.R.Mohanasundaram, Advocate

For Respondent : Mr.P.Kottai Chamy  
Government Advocate (Crl.Side)

PRAYER: Criminal Original Petition filed under Section 438 of 'The Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail to the petitioner/ A2 in Crime No.265 of 2023 on the file of the respondent-police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 26.12.2023 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying



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to grant an order of pre-arrest bail.

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2. The petitioner/Accused No.2, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 353 and 506(i) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.265 of 2023, on the file of the respondent Police.

3. The defacto complainant is the Executive Officer of Eruvadi Special Grade Town Panchayat. The case of the prosecution is that due to heavy North East Monsoon rain, on 17.12.2023 and 18.12.2023, the process of removal of the encroachment in the drainage of the said Town Panchayat was executed in an emergent manner; that when they attempted to executed the said process near the shop of the petitioner and others, they prevented the same and abused the defacto complainant and other workers. Hence, the case.

4. The learned counsel for the petitioner submitted that the petitioner is an innocent person and has not committed any offence as alleged by the prosecution. He further submitted that the petitioner did not prevent any of the actions executed by the Government. Accordingly, he prayed to grant an order of pre-arrest bail to the



petitioner.  
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5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that no one sustained injuries in this occurrence and the petitioner has no previous case. He further submitted that the investigation in this case is not yet completed. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. Petitioner has permanent residence. He has deep root in Society. He has no previous case. Hence, this Court is of the view that custodial interrogation of the petitioner is not necessary in this case. Admittedly, no one sustained any injury in the alleged crime. Considering above facts and circumstances of the case, this Court is inclined to grant an order of pre-arrest bail to the petitioner subject to the following conditions.

(i) The petitioner shall be released on bail the event of his arrest or in the event of his surrender before the learned Judicial Magistrate, Nanguneri within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum of Rs.25,000/- (Rupees



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Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate,  
Nanguneri;

(ii) The petitioner shall appear and sign before respondent Police, daily at 10.00 a.m., until further orders;

(iii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioner shall make himself available for interrogation by police as and when required;

(v) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(vi) The petitioner shall not leave India without the prior permission of the Court; and



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(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-  
28/12/2023

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

cp

To

- 1.The Judicial Magistrate,  
Nanguneri.
- 2.Do through the Chief Judicial Magistrate,  
Tirunelveli District.
- 3.The Inspector of Police,  
Eruvadi Police Station, Tirunelveli District.



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

+1 CC to M/s.C.K.M.APPAJI, Advocate ( SR-18403[I] dated 28/12/2023 )

ORDER  
IN  
CRL OP(MD) No.23521 of 2023  
Date :28/12/2023

RK/DD (03/01/2024) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from  
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