



Crl.O.P.(MD) No.23558 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

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1.Mariyappan @ Mariappan

2.Arumugam

... Petitioners/ Accused Nos.6 & 8

Vs

State rep by
The Inspector of Police,
Courtallam Police Station,
Tenkasi District.
(In Crime No.432 of 2023)

... Respondent/ Complainant

For Petitioners : Mr.P.Praveenkumar, Advocate

For Respondent : Mr.M.Veeranthiran
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 petitioners/ A6 & A8 in Crime No.432 of 2023 on the file of the respondent police.



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ORDER : The Court made the following order :-

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This Criminal Original Petition has been filed by the petitioners on 26.12.2023 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners/ A6 & A8, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 294(b), 323, 324 and 506(2) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.432 of 2023 on the file of the respondent-police.

3. The case of the prosecution is that on 06.12.2023, a Guava Plant planted by the defacto complainant was uprooted by one Ganesan and Balasubramaniam; that the same was again planted by the defacto complainant; that due to the same, on 08.12.2023, at about 10.00 p.m, when the maternal uncle of the defacto complainant namely, Mariappan was approaching Water Tank, the petitioners along with other accused persons abused him in filthy language; and that when the same was questioned by the defacto complainant, they abused the defacto complainant and assaulted him and his family members with hands, knife, wooden log, iron rod and Billhook and caused injuries to them. Hence, the case.



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4. The learned counsel for the petitioners submitted that the petitioners are innocent and they have been falsely implicated in this case. He further submitted that it is a 'cases in counter'; that in the said occurrence, the defacto complainant party also attacked the petitioners party and caused injury to 6 persons; and that, counter case has been registered in Crime No.431 of 2023 against the defacto complainant and others. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that totally 8 persons are involved in this case; that the injured persons were admitted in the hospital on 08.12.2023 and discharged on 11.12.2023. Further, he submitted that if pre-arrest bail is granted to the petitioners, the petitioners would cause threat the defacto complainant witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

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

7. The case is a 'case in counter'. The crime number of the present case is Crime No.432 of 2023 and the crime number of the counter case is Crime No.431 of 2023.



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The petitioners and the defacto complainant are residing in the same street. The case of the prosecution is that the defacto complainant planted Guava Plant in the pathway margin. Hence, there arose dispute between the petitioners and the defacto complainant. In this case, totally 8 persons are arrayed as accused. 7 persons have sustained injuries in the offence. They were admitted in the hospital on 08.12.2023 and discharged on 11.12.2023. It is stated that the alleged injuries said to have been caused by the petitioners to the victims are simple in nature.

8. The petitioners and the defacto complainant are known persons and residing in the same street. The petitioners have no previous case. The petitioners have deep roots in society. The injured were discharged from the hospital.

9. Considering the above facts and circumstances of the case, the nature of the offence alleged by the petitioners and the relationship between the petitioners & the defacto complainant, this court is inclined to grant an order of pre-arrest bail to the petitioners subject to the conditions.

10. Accordingly, pre-arrest bail is granted to the petitioners subject to the following conditions.



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(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the learned Judicial Magistrate, Shenkottai, Tirunelveli District within a period of 15 days from today, on executing a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each along with two sureties (of which one shall be the blood related surety) each for a like sum to the satisfaction of the learned Judicial Magistrate, Shenkottai, Tirunelveli District;

(ii) The petitioners shall appear and sign before the Tenkasi Town Police Station, daily twice at 10.00 a.m and 05.00 p.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 petitioners shall make themselves available for interrogation by police as and when required;



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(v) The petitioners 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 them from disclosing such facts to the Court or to any police officer;

(vi) The petitioners shall not enter into the defacto complainant's house and workplace;

(vii) The petitioners shall not leave India without the prior permission of the Court; and

(viii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner(s) 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].

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

sd/-
28/12/2023

/ TRUE COPY /

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

DSS



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To

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- 1.THE JUDICIAL MAGISTRATE,
SHENKOTTAI, TIRUNELVELI DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
COURTALLAM POLICE STATION,
TENKASI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE,
TENKASI TOWN POLICE STATION,
TENKASI.

+1 CC to M/s.P.PRAVEEN KUMAR, Advocate (SR-34[I] dated 02/01/2024)

ORDER

IN

CRL OP(MD) No.23558 of 2023

Date :28/12/2023

RK/DD (03/01/2024) 7P / 7C

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