



Crl.O.P.(MD) No.23573 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.23573 of 2023

1.Baskaran  
2.Balasubramanian  
3.Sajin

... Petitioners / Accused Nos.1 to 3

Vs

The State Rep by  
The Inspector of Police  
Anjugramam Police Station,  
Kanyakumari District.  
(Crime No.202 of 2023)

... Respondent / Complainant

For Petitioners : Mr.K.Sivabalan, Advocate  
for Mr.G.Aravindh, Advocate  
For Respondent : Mr.B.Thanga Aravinidh  
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/A1 to A3 in Crime No.202 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 petitioners 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 petitioners / Accused Nos.1 to 3, apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 294(b), 323 and 448 of the Indian Penal Code, 1860 (Act No.45 of 1860) and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.202 of 2023 on the file of the respondent-Police.

3. The case of the prosecution is that there was previous enmity between the petitioners and the defacto complainant's son, therefore, on 20.12.2023, at about 07.00 p.m., the petitioners along with the other accused trespassed into the defacto complainant's house and assaulted the defacto complainant, her daughter and her son and caused injuries using bare hands and wood on stick. Hence, the case.

4. The learned counsel for the petitioners submitted that due to previous enmity, the defacto complainant foisted a false case against the petitioners. He further submitted that the petitioners are innocent and they have not committed any offence as alleged by the prosecution and also submitted that it is a 'case in counter'. Defacto complainant's son attacked one Sureshkumar with lethal weapon. The said Sureshkumar filed complaint against son of the defacto complainant. The petitioners helped Sureshkumar and admitted him in Hospital. Hence, with a view bend Sureshkumar and the petitioner, defacto complainant falsely foisted the complaint



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against the petitioner. 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-Police submitted that the defacto complainant sustained simple injury and got discharged from the hospital. He further submitted that the custodial interrogation of the petitioner is necessary in this case. Hence, he prayed to dismiss this Criminal Original Petition.

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

7. It appears that due to previous enmity between the petitioners and the defacto complainant's son, on 20.12.2023, at about 07.00 p.m., the petitioners along with the other accused trespassed into the defacto complainant's house and assaulted the defacto complainant, her daughter and her son and caused injuries to them. To be noted, a case in Crime No.201 of 2023 on the file of the Anjugramam Police Station was registered against Nishanth son of Jayapaul. Hence, this Case and Crime No.201 of 2023 are 'cases in counter'.

8. Considering the nature of the dispute between petitioners and the defacto complainant and the nature of the injury allegedly caused by the petitioners to the defacto complainant and others, this Court is of the view that custodial interrogation of the petitioner is not necessary in this case. Hence, this court is inclined to grant



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an order of pre-arrest bail to the petitioners with conditions. Accordingly, pre-arrest

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bail is granted subject to the following conditions:-

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

(ii) The petitioners shall appear and sign before respondent-Police, daily at 05.00 p.m., until further orders;

(iii) The petitioners should not enter into the defacto complainant's house or his work place;

(iv) 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;

(v) The petitioners shall make themselves available for interrogation by police as and when required;



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(vi) 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;

(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 petitioners 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].

9. 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.

TTA



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To

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1.The Judge,  
Additional Mahila Court,  
Judicial Magistrate Level, Nagercoil.

2.Do through the Chief Judicial Magistrate,  
Kanyakumari District at Nagercoil.

3.The Inspector of Police,  
Anjugramam Police Station,  
Kanyakumari District.

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

+1 CC to M/s.G.ARAVINTHAN, Advocate ( SR-18412[I] dated 28/12/2023 )

ORDER  
IN

CRL OP(MD) No.23573 of 2023  
Date :28/12/2023

ED/ DD /SAR- (04/01/2024) 6P / 6C

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