



Crl.O.P.(MD) No.23571 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.23571 of 2023

1.Sathiyaraj

2.Bose

3.Ariyamuthu

... Petitioners/ Accused No.2, 4 and 7

Vs

The Inspector of Police
Avaniyapuram Police Station,
Madurai District.
(Crime No.905 of 2023)

... Respondent/Complainant

For Petitioners : Mr.R.Kannan, Advocate

For Respondent : Mr.P.Kottaichamy, 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/A2, A4 and A7 in Crime No.905 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 to grant an order of pre-arrest bail.

2. The petitioners / Accused Nos.2, 4 and 7, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 379 and 411 of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.905 of 2023, on the

file of the respondent-Police

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



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3. The case of the prosecution is that the petitioners are temporary drivers and they have illegally stolen diesel and sold the same to the first accused on several occasions. Hence, the case.

4. The learned counsel for the petitioners submitted that the petitioners are temporary drivers and they requested the Municipal Corporation Authorities to regularize their services; that in the said circumstances, a dispute arose between the petitioners and the Municipal Corporation Authorities; that hence, the Municipal Corporation Authorities foisted a false case against the petitioners; and that the petitioners have permanent residence. 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 petitioners and others have stolen diesel and sold the same to the first accused and thereby cause loss to the Madurai Corporation. He further submitted that the first accused was arrested and released on bail on 22.12.2023; that the first and third petitioners have one previous case; that the Investigation in this case is not yet completed; and that if this Court grants an order of pre-arrest bail to the petitioners, they will cause threat to the defacto complainant and witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

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



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7. Considering the relationship between the petitioners and the defacto complainant, the nature of the offence allegedly committed by the petitioners and also with a view to give one more opportunity to the petitioner to reform themselves, this Court is inclined to grant an order of pre-arrest bail to the petitioners subject to conditions. Accordingly, pre-arrest bail order is granted in favour of the petitioners 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 Judicial Magistrate No.VI, Madurai 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 along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Judicial Magistrate No.VI, Madurai;

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

(iii) The petitioners shall furnish their residential address as well as their mobile numbers to the respondent police;

(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



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identity proof to ensure their identity;

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

(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 Madurai City without the prior permission of the Jurisdictional Judicial Magistrate Court/Trial 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].

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

sd/-

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/01/2024

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



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To

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1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.

3 THE INSPECTOR OF POLICE, AVANIYAPURAM POLICE STATION,
MADURAI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.23571 of 2023

Date :28/12/2023

RS/VR/SAR-(04.01.2024) 5P 5C

Madurai Bench of Madras High Court is issuing
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