



Crl.O.P.(MD) No.23609 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

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1.J.R.Jenish @ Jenish Raj
2.J.Jeba @ Jebaraj

... Petitioners / Accused Nos.1 and 2

Vs

State through the Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.306 of 2023)

... Respondent / Complainant

For Petitioners : M/s.C.Geetha, Advocate
for M/s.R.Maheswaran, 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/ A1 and A2 in Crime No.306 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 and 2, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 341, 294(b), 323, 324 and 506(1) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.306 of 2023 on the file of the respondent-Police.

3. The case of the prosecution is that on 19.12.2023, when the defacto complainant was riding a bike along with his friend, the first accused drove his vehicle in a rash and negligent manner; that the same was questioned by the defacto complainant; and that at that time, the first accused abused the defacto complainant in filthy language, attacked him and also threatening him with dire consequences. Hence, the case.

4. The learned counsel for the petitioners submitted that the first accused was brutally attacked by the defacto complainant; that the petitioners are innocents and they were in no way connected to the alleged offence; and that they have been falsely implicated in this case. Accordingly, she 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 in the said incident and got discharged from hospital. He further submitted that investigation



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in this case is not yet completed. Hence, he prayed to dismiss this Criminal Original
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Petition.

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

7. This case in Crime No.306 of 2023 and another case in Crime No.307 of 2023 are 'Cases in Counter'. In this case, the victim was admitted in hospital on 19.12.2023 and got discharged on 23.12.2023. The victim sustained simple injury in the said incident. The petitioners have permanent residence and deep roots in the Society. Hence, the possibility of absconding is very less.

8. Considering the above facts and circumstances of the case and the nature of the offence, this Court is of the view that custodial interrogation of the petitioner may not be necessary to the Investigation Agency. Hence, this Court grants an order of pre-arrest bail to 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.I, Kulithurai within a period of 15 days from today, on executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each, along with two sureties each for a like sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the satisfaction of the learned Judicial Magistrate No.I, Kulithurai;

(ii) The petitioners shall appear and sign before respondent Police daily



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at 10.00 a.m., until further orders;

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(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;

(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 him/her 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 Jurisdictional Judicial Magistrate Court/Trial Court; and

(viii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Judge 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



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P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

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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.

CP

To

1.The Judicial Magistrate No.I,
Kulithurai.

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

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

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

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-18419[I] dated 29/12/2023)

ORDER IN
CRL OP(MD) No.23609 of 2023
Date :28/12/2023



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

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