



Crl.O.P.(MD) No.23587 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.23587 of 2023

1.Indhumathi

2.Ragul

... Petitioners / Accused Nos.1 and 2

Vs

The State Rep by
The Inspector of Police
Uppiliyapuram Police Station,
Trichy District.
(Crime No.384 of 2023)

... Respondent / Complainant

For Petitioners : Mr.S.Ramakrishnan, 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 & A2 in Crime No.384 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 / Accused Nos.1 and 2, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 341, 323, 324 and 506(i) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.384 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, hence, on 13.11.2023, at about 3.30 p.m., when the defacto complainant and his son were approaching in vehicle, the petitioners forcibly intercepted them and attacked the defacto complainant and also took the custody of the defacto complainant's son. Hence, the case.

4. The learned counsel for the petitioners submitted that the defacto complainant is the divorced husband of the first petitioner herein; that due to



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previous enmity, the defacto complainant foisted a false case against the petitioners.

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He further submitted that the petitioners are innocents and they have not committed any offence as alleged by the prosecution and 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 defacto complainant sustained simple injuries and got discharged from the hospital. He further submitted that investigation in this case is not yet completed. Further submitted that first petitioner and defacto complainant have disputes over custody of their minor son. Hence, he prayed to dismiss this Criminal Original Petition.

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

7. The defacto complainant is the divorced husband of the first petitioner herein. It appears that there is some dispute between the defacto complainant and the first petitioner with regard to the custody of the five years old child. The defacto complainant sustained only simple injuries.



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8. Considering the nature of the dispute between the first petitioner and the defacto complainant and also considering the nature of the injury allegedly caused by the petitioners to the defacto complainant, this Court is of the view that custodial interrogation of petitioners may not necessary to the investigation agency in this case. Hence, this Court is inclined to grant an order of pre-arrest bail to the petitioners with conditions. Accordingly, this Criminal Original Petition is allowed 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, Thuraiyur, Trichy District 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, Thuraiyur, Trichy District;

(ii) The petitioners shall appear and sign before respondent Police weekly twice i.e., on every Monday and Friday at 10.00 a.m., until further orders;



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(iii) The petitioners shall 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 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

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



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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].

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,
Thuraiyur, Trichy District.
 - 2.Do through the Chief Judicial Magistrate,
Trichy District.
 - 3.The Inspector of Police,
Uppiliyapuram Police Station,
Trichy District.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-16[I] dated 02/01/2024)



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ORDER

IN

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Date :28/12/2023

RK/DD (03/01/2024) 7P / 6C

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