

THE HONOURABLE SRI JUSTICE M. LAXMAN

CRIMINAL PETITION No. 4967 OF 2023

ORDER:

1. This petition is filed seeking to grant anticipatory bail under Section 438 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioners are accused Nos.1 and 2 in Crime No.113 of 2023 of Dharmapuri Police Station, Jagityal. The offences alleged against the petitioners are under Sections 3(1)(r)(s) and 3(2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015.

2. The sum and substance of case of the prosecution is that the complainant is a Scheduled Caste member and he allegedly claiming that there is a road in the SC colony. When he had been laying some metal on the road, the petitioners/ accused Nos.1 and 2 allegedly went to him and abused him in the name of caste and threatened with dire consequences to kill him if he continued to dump the metal.

3. Learned counsel for the petitioners/ accused Nos.1 and 2 contended that the petitioners are the owners of the property in which the alleged attempt has been made to lay the road and

they have obtained a memo from the concerned revenue officials saying that there is no road formation in the survey number in which the attempt was made to lay the road. They have patta passbook of land in that survey number. When they resisted, the present complaint is filed and prayed to grant bail to the petitioners/accused Nos.1 and 2.

4. Learned Additional Public Prosecutor opposed the bail petition of petitioners/accused Nos.1 and 2.

5. As seen from the documents placed on record, *prima-facie* shows that the petitioners/accused Nos.1 and 2 have been asserting the right over the property in which alleged attempt has been made to lay the road. The complainant claimed that such road has been exists since long time and in fact the same is demolished by revenue authorities by issuing a memo. *Prima-facie*, this Court feels that the petitioners have a right to restrain the unauthorised encroachment and when such resistance was legally made, it cannot be said that they have committed any offence rightly under Section 3(2)(v)(a). Further, when the property has not established as a public place, the alleged allegations containing under Section 3(1)(r)(s)

has not been attracted. In the said circumstances, the benefit of bail can be extended to the petitioners/accused Nos.1 and 2.

6. Accordingly, the Criminal Petition is allowed and the petitioners/accused Nos.1 and 2 shall be released on bail on the following terms and conditions:

- (i) The petitioners/accused Nos.1 and 2 shall be released on bail on their executing a personal bond for Rs.20,000/- (Rupees ten thousand only) each with two sureties for a like sum each to the satisfaction of the Station House Officer, Dharmapuri, Jagital District.
- (ii) The petitioners/accused Nos.1 and 2 shall abide by the other conditions stipulated in Section 438 (2) Cr.P.C and co-operate with the Investigating Officer in investigating the case.
- (iii) The petitioners/accused Nos.1 and 2 shall make available with the investigating agency for proper investigation and they shall fully cooperate with the investigating agency. They shall not act in any manner which will be prejudicial to fair and expeditious investigation.

JUSTICE M. LAXMAN

15.06.2023
pld/plp

THE HONOURABLE SRI JUSTICE M. LAXMAN

CRIMINAL PETITION No. 4967 of 2023

Date:15.06.2023

pld/plp