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Crl.O.P.No.7631 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.7631 of 2024

Selvaraj

...Petitioner

Vs.

State rep by,
Inspector of Police,
Vaniyambadi Taluk Police Station,
Thirupathur District.
(Crime No.44 of 2024)

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in FIR in Crime No.44 of 2024 on the file of the respondent police.

For Petitioner : Mr.S. Sasikumar
For Intervenor : Mr.G. Vinoth Kumar
For Respondent : Mr.L. Baskaran
Government Advocate (Crl.Side)

ORDER

The petitioner seeks bail in Crime No.44 of 2024 registered under Sections 143,447,294(b),323,324,506(II) of I.P.C r/w Section 3 of PPD L Act, 1982 on the file of the respondent police.



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2. The petitioner was remanded to judicial custody on 26.01.2024.

It is the case of the prosecution that as between the accused and the defacto complainant there are two civil suits pending with respect to property at Madhanacheri Village, Murukkankuttai, Vaniyambadi Taluk in Tirupathur District. The first suit in O.S.No.116 of 2022 filed by A1 and another suit in O.S.No.7 of 2024 filed by the defacto complainant. When the two suits are pending, it is only appropriate that all the parties to the suit and every body else abides by the decision taken by the Civil Court . But, however it appears that all the accused, had taken two J.C.Bs and one tractor and had demolished the compound wall of the defacto complainant. It is contended that he had constructed the compound wall in the property of the first accused.

3. The earlier application seeking bail was dismissed by this Court vide order dated 05.03.2024 in Crl.O.P.No.4130 of 2024. On that date A4 and other co-accused persons have also filed applications seeking anticipatory bail and all the applications was also dismissed.



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4. The learned counsel for the Intervenor submitted that the petitioner has put up a wall in the subject area due to which the defacto complainant was unable to carry out his agricultural work.

5. The learned Government Advocate submitted that the issue of alibi can be examined only during the course of trial. He further submitted that the loss caused amounts to Rs.3,00,000/-

6. The learned counsel for the petitioner now pointed out the period of incarceration suffered by the petitioner which is more than 55 days.

7. Taking all the factors into consideration and the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand



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only) with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Vaniyambadi** and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b]the petitioner shall report before the respondent Police, everyday at 10.30 a.m., until further orders.

[c] the petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of Crime No.44 of 2024 before the Judicial Magistrate, Vaniyambadi. Time for deposit is till 31.05.2024. On such deposit, the learned Judicial Magistrate, Vaniyambadi may hand over a sum of Rs. 50,000/- to the defacto complainant and may retain the balance amount of Rs.1,00,000/- in any fixed deposit earning interest till the date of final order.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

26.03.2024

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C.V.KARTHIKEYAN, J.

smn

To

1. The **Judicial Magistrate, Vaniyambadi**
2. Inspector of Police,
Vaniyambadi Taluk Police Station,
Thirupathur District.(Crime No.44 of 2024)
3. The Central Prison, Vellore
4. The Public Prosecutor, Madras High Court.

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