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Crl.O.P.No. 11820 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.05.2024

CORAM

THE HON'BLE MR. JUSTICE R.SAKTHIVEL

Crl.O.P.No. 11820 of 2024

Mr.Siva

... Petitioner/1st Accused

Vs.

State rep. By
The Inspector of Police
Neravy Police Station, Karaikal District.
(Crime No.07 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C.,
praying to enlarge the petitioner on bail, in the event of his arrest in Crime
No. 07 of 2024 on the file of the Inspector of Police, Neravy Police Station,
Karaikal District.

For Petitioner : Mr. Vinoth Kumar

For Respondent : Mr. S.Udayakumar
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed by the petitioner under Section 438 of the Code of Criminal Procedure, 1973 praying to grant an order of pre-arrest bail.

2. The petitioner/ 1st accused, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 324 & 506(ii) of IPC read with 34 of IPC in Crime No. 07 of 2024 on the file of the respondent police.

3. Case of the prosecution is that the petitioner assaulted the defacto-complainant, and further threatened him with dire consequences on the date of occurrence. As a result of the assault, the defacto-complainant sustained injuries. Hence the case.

4. Learned counsel for the petitioner submitted that the petitioner is innocent. There exists some previous animosity between the defacto-complainant and the petitioner and this case has been falsely foisted against the petitioner. It is the defacto-complainant who actually trespassed and



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assaulted the petitioner. However, police refused to register a case against the defacto-complainant. Later, to escape from the clutches of law, the defacto-complainant has lodged this case in Crime No.07 of 2024 on the file of respondent police. He further submitted that, the petitioner has deep roots in the society and that he is read to obey the conditions, if any, imposed by this Court. Further submitted that, though the petitioner was granted anticipatory bail by the Sessions Court, he could not comply with the conditions as another case was falsely foisted against him. So, he filed another anticipatory bail application before the learned Sessions Court the same was dismissed. Accordingly, he prayed to allow the petitioner and grant an order of pre-arrest bail to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner has two previous cases. He further submitted that the petitioner had applied for anticipatory bail and the same was granted by the learned Sessions Court, but, he failed to furnish sureties as ordered by the Sessions Court. Further, in the meantime, the petitioner committed another offence and a case has also been registered. He further submitted that if the petitioner is granted anticipatory bail, the petitioner



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would commit similar type of offences and would cause threat to the defacto complainant and other witnesses. Accordingly, the learned Government Advocate (Crl. Side) prayed to dismiss this petition.

6. Heard on both sides. This Court has perused the records. Earlier, the petitioner had filed Crl.M.P.No.83 of 2024 before the learned Sessions Judge, Karaikal seeking anticipatory bail in Crime No.7/24 on the file of Neravy Police Station, Karaikal and the same was allowed subject to the conditions. The petitioner failed to comply with the conditions and the Anticipatory Bail granted got revoked automatically. If the petitioner is not able to comply with the conditions within the stipulated time, he ought to have filed a petition seeking extension of time. The petitioner, instead, filed another anticipatory bail application under Section 438 of Cr.P.C. in Crl.M.P.No.01 of 2024 before the learned Sessions Judge, Karaikal. The learned Sessions Judge dismissed the same by reasoning that the conditions imposed in the earlier Criminal Miscellaneous Petition under Section 438 of Cr.P.C. were not complied with and the reason assigned for non-compliance is not satisfactory.



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7. When this Court posed a question to both sides' counsels in open court as to, whether second anticipatory bail application is maintainable in the absence of any change of circumstance, when the conditions imposed in the earlier anticipatory bail application are not complied with. Both sides could not put forth any concrete argument.

8. Considering the facts and circumstances of the case, the nature of offences alleged, the date of occurrence, the fact that anticipatory bail has been granted to the petitioner in another related case, to avoid multiplicity of proceedings and in the interest of justice, this Court is of the view that there is no need to delve into the moot question in this case and the same is left open to be decided as when the occasion arises. Further, in view of the above reasons, and also with a view to offer an opportunity to the petitioner to reform himself, this Court grants anticipatory bail to the petitioner subject to the following conditions.

(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate Court No.I, Karaikal, within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), along with



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two sureties each for a like sum of Rs.25,000/- to the satisfaction of the Judicial Magistrate Court No.I, Karaikal;

(ii) The petitioner shall appear and sign before the respondent police, daily twice at 10.00 a.m, and 05.00 p.m., until further orders;

(iii) 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;

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

(v) The petitioner 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;

(vi) The petitioner shall not enter into the defacto complainant's house and workplace;

(vii) The petitioner shall not leave India without the prior permission of the trial Court; and



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(viii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner 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].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra. This is a one-off case and shall not serve as a precedent.

16.05.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

Note:

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R.SAKTHIVEL, J.

vsg

TO

1. The Judicial Magistrate No.1, Karaikal.
2. Do through the Chief Judicial Magistrate, Karaikal
3. The Inspector of Police
Neravy Police Station, Karaikal District.
4. The Public Prosecutor, High Court, Madras.

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