



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.12067 of 2024

1.Kumaravel
S/o.Perumal Gounder

2.Senthil Kumar
S/o.Kumaravel

... Petitioners/Accused

Versus

State rep. by
The Inspector of Police,
Magudamchavadi Police Station,
Salem District.
(Crime No.138 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, praying to grant an order of anticipatory bail to the petitioners in the even of their arrest in Crime No.138 of 2024 on the file of the respondent police.

For Petitioner : Mr.A.Sriram

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioners under Section

438 of 'The Criminal Procedure Code, 1973 (Act No.2 of 1974)' praying to grant an



order of pre-arrest bail.

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2. The petitioners apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 294(b) and 506(1) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.138 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 06.05.2024 at about 01.30 p.m, when the *de facto* complainant along with other authorities was conducting survey of the road in order to remove the encroachments, the *de facto* complainant was abused by the petitioners with filthy language and they threatened him with dire consequences. Hence, the case.

4. The learned counsel for the petitioners submitted that since the survey was not done properly, the petitioners objected the same and demanded proper survey of the road and hence the *de facto* complainant had lodged a false complaint against the petitioners. He further submitted the petitioners are innocent and have not committed any offence as alleged by the prosecution and threatened with dire consequences. Hence, he prayed to grant an order of pre-arrest bail to the petitioner.



5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners have abused the *de facto* complainant with obscene words. Hence, he prayed to dismiss this Criminal Original Petition.

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

7. Perusal of FIR shows that there is some boundary line dispute between the petitioner and the *de facto* complaint. Except Section 506(i) of the Indian Penal Code, the other offence allegedly committed by the petitioners under Section 294(b) of the Indian Penal Code is bailable in nature.

8. Considering the above facts and circumstances of the case, the nature of offence as alleged and with a view to offer an opportunity to reform themselves, this Court grants an order of pre-arrest bail to the petitioner 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-II, Sankari within a period of 15 days from today, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate-II,

Sankari.

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



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(ii) The petitioners shall appear and sign before respondent Police, weekly once ie., Monday at 10.00 a.m., for a period of eight weeks, from the date of receipt of a copy of this order;

(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-II, Sankari, 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 Magistrate/Trial Court 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 **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*.

17.05.2024

Index : Yes/No
Internet : Yes/No
Speaking order / Non-speaking order
Neutral citation : Yes/No
bkn/ssr

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**

To

1.The Judicial Magistrate-II, Sankari.

2.The Inspector of Police,
All Women Police Station,
Tittagudi,
Cuddalore District.

3.The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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