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Crl.O.P.No.12076



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.12076 of 2024

1.G.Bharathiraja
S/o.Govindasamy

2.Jayapriya
W/o.Bharathiraja

... Petitioners/Accused 1 & 2

Versus

State rep. by
The Inspector of Police,
Kolathur Police Station,
Salem District.
(Crime No.155of 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.155 of 2024 on the file of the respondent police.

For Petitioners : Mr.Guruprasad Manoharan

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



ORDER

WEB COM This Criminal Original Petition has been filed by the petitioners under Sections 438 of 'The Criminal Procedure Code, 1973 (Act No.2 of 1974)' praying to grant an order of pre-arrest bail.

2. The petitioners apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 147, 352, 365 and 506(ii) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.155 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that the 1st petitioner is the defacto-complainant's uncle's son and 2nd petitioner is the 1st petitioner's wife. The petitioners ill-treated the defacto-complainant's uncle. They forcefully took cash, property documents, Bike RC, Phone, Ration Card etc., from the defacto-complainant's uncle. Further, they attempted to kidnap the defacto-complainant's uncle along with three other persons on 11.05.2024 at 01.00p.m. When the defacto-complainant intervened to prevent the kidnap, he was verbally threatened with dire consequences. Hence, the case.



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4. The learned counsel for the petitioners submitted that the first petitioner is the son of the defacto complainant's uncle and the second petitioner is the wife of the first petitioner. He further submitted that since the defacto complainant's uncle is alcoholic, the petitioners have taken him to de-addiction centre. He further submitted the petitioners are innocent and have not committed any offence as alleged by the prosecution. Hence, 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 due to property dispute the petitioners have kidnapped the *de facto* complainant's uncle to threatened the defacto-complainant with dire consequences. However, no injury was caused to the defacto-complainant or his uncle. Accordingly, 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 was some property dispute between the petitioners and the *de facto* complaint's uncle who are family members. Hence, the petitioner kidnapped the defacto-complainant's uncle. Considering the facts and circumstances of the case, relationship between the parties, the nature of offences allegedly committed by the petitioners 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:



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(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 No.1 Court, Mettur within a period of 15 days from today, on executing a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each along with two sureties each for a like sum of Rs.20,000/- (Rupees Twenty Thousand only) to the satisfaction of the learned Judicial Magistrate No.1, Mettur.

(ii) The petitioners shall appear and sign before respondent Police, weekly once ie., Monday at 10.00 a.m., until further orders;

(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 No.1, Mettur, 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;



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(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]**.

8. 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.**



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1.The Judicial Magistrate No.1, Mettur.

2.The Inspector of Police,
Kolathur Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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