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Crl.O.P.Nos.28591 & 28584 of 2023

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C.V.KARTHIKEYAN, J.

The petitioners/A1 to A8 in Crl.O.P.No.28591 of 2023 and A9 to A16 in Crl.O.P.No.28584 of 2023 seek anticipatory bail in Crime No.481 of 2023 registered by the respondent Police for the offences punishable under Sections 147, 294(b), 323, 324, 427 and 506(ii) of IPC.

2. Both the petitioners have filed anticipatory bail application in Cr.No.481 of 2023.

3. It is stated that the defacto complainant had claimed right and title over the land in survey No.755 of 2013 which actually had classified in the revenue records as poramboke land. She had filed O.S.No.129 of 2023 and the same is pending before the District Munsif Court, Sankari.

4. It is also stated that even pending the suit, all the petitioners had encroached into the land and had tried to create a pathway for accessing the mayanam.



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5. The learned counsel for the petitioners stated that there is also a temple at the other side of the land and the petitioners are Administrators of the temple. These are the factors which have to be assessed during the course of investigation but if a suit had filed and if pending the suit there is a threat of encroachment, then the defacto complainant can very well seek necessary remedy from the civil Court and if there is a violation of any interim orders of the civil Court, the defacto complainant can also take recourse to the provision for such violation as against the petitioners herein.

6. The petitioners had also filed an affidavit stating that the petitioners are using the land only at the time of festival.

7. However, taking all other factors into consideration, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Judicial Magistrate No.I, Sankari**, on condition that the petitioner shall execute a separate bond for a



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sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and 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 5th, 6th and 8th petitioners in Crl.O.P.28591 of 2023 and 4th, 5th, 6th, 7th and 8th petitioners in Crl.O.P.No.28584 of 2023 shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required and other petitioner shall report before the respondent police as and when required.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during



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investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**.

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

05.01.2024

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