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Crl.O.P.Nos.28868 & 25772 of 2023

Crl.O.P.Nos.28868 & 25772 of 2023
and Crl.M.P.No.19419 of 2023

C.V.KARTHIKEYAN, J.

A2, A3 & A4 have filed Crl.O.P.No.25772 of 2023 and A6, A7 & A8 have filed Crl.O.P.No.28868 of 2023, both in Crime No.255 of 2023, seek anticipatory bail. Originally, Crime No.255 of 2023 had been registered for the offence punishable under Section 174 Cr.P.C. and later had been altered to 306 IPC.

2. The defacto complainant is the wife of the deceased. It is the case of the prosecution that the defacto complainant and her husband/deceased had cultivated tomato and cabbage crops in a poramboke land which is adjacent to the land of the petitioners and the other accused. It is stated that on 16.09.2023, the revenue officials conducted an eviction drive and the land under the occupation of the defacto complainant and her husband had been taken possession by the revenue officials. While taking such possession, it is alleged that these petitioners and the other accused had damaged the crops which had been grown there by the defacto complainant and deceased/her husband. Owing to such frustration, the husband of the defacto complainant, committed suicide.



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3. The learned counsel for the defacto complainant had entered appearance by filing an application to intervene in Crl.M.P.No.19419 of 2023.

4. It is contended that all the crops which were grown had been damaged and destroyed which caused much loss to the defacto complainant.

5. It is stated by the learned counsel that a rough estimate of the crops would be around Rs.10 lakhs. This quantum of amount was seriously disputed by the learned counsel for the petitioners. This Court had earlier considered the bail application of A1 in Crl.O.P.No.28601 of 2023 by an order dated 22.12.2023, bail had been granted subject to condition that A1 should deposit a sum of Rs.50,000/- and that the Judicial Magistrate, Denkanikottai, may hand over the said amount to the defacto complainant.

6. The learned Principal Sessions Judge, Krishnagiri had also considered the bail application of another accused Udhayakumar and by an order dated 22.12.2023 in Crl.M.P.No.4809 of 2023, bail had been granted on condition to deposit a sum of Rs.1 lakh, but it had been stated that final



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orders about the disposal of the amount shall be passed on conclusion of trial. Effectively this means where the defacto complainant had been compensated to a sum of Rs.50,000/- alone.

7. The learned counsel for the petitioners herein pointed out that the defacto complainant and her husband have encroached nearly about 10 cents of land. According to them, it is the poramboke land.

8. It is stated that the defacto complainant had been sufficiently compensated by the amount directing to deposit by this Court. It is also stated that maximum loss suffered would be around Rs.1.5 lakhs.

9. The learned Government Advocate(Crl.Side) stated that a report was sought from the revenue authorities about the quantum of damages and that the report is awaited. But let me not hold over taking a decision of this application.

10. In so far as the first petitioner in Crl.O.P.No.28868 of 2023 is concerned, he had been granted bail by the learned Principal Sessions Judge,



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Krishnagiri in Crl.M.P.No.4809 of 2023 by an order dated 22.12.2023, which had been referred earlier in the order. Therefore, the petition stands dismissed so far as the first petitioner is concerned.

11. So far as the second and third petitioners in Crl.O.P.No.28868 of 2023 and the first, second and third petitioners in Crl.O.P.No.25772 of 2023 are concerned, who are arrayed as A7, A8, A2, A3 and A4 respectively, anticipatory bail is granted to them on condition that each one of them shall deposit a sum of Rs.50,000/- each to the credit of Crime No.255 of 2023. On such deposit, the learned Judicial Magistrate, Denkanikottai may hand over a sum of Rs.20,000/- each (totally Rs.1/- lakh) to the defacto complainant. The balance amount of Rs.30,000/- each may be retained in a Fixed Deposit in any one of the Nationalized Banks, which would earn interest and final orders shall be passed on conclusion of trial. If the petitioners are acquitted, then they may get back the said amount with interest and if they are convicted then the amount along with interest to be handed over to the defacto complainant. The time to deposit such amount is till 24.01.2024 and further conditions that:



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(i) the petitioners/ A7, A8, A2, A3 and A4 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 **learned Judicial Magistrate, Denkanikottai** on condition that the petitioners shall execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners/ A7, A8, A2, A3 and A4 shall report before the respondent police once in a week i.e., every Saturday at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation.

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



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[d] the petitioners shall not abscond either during 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.

12. Consequently, connected miscellaneous petition is closed.

03.01.2024

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