



CRL OP(MD) No.3901 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twelfth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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BALASUBRAMANIAN ... PETITIONER/ ACCUSED RANK NOT KNOWN

Vs

THE INSPECTOR OF POLICE
PARAMAKUDI TOWN POLICE STATION
PARAMAKUDI,
RAMANATHAPURAM DISTRICT.
CRIME NO.79/2024.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.ANAND, Advocate
for M/S.B.ARUN, Advocate
For Respondent : MR.S.MANIKANDAN, Government Advocate (Crl.Side)
For Intervenor : MR.G.PRABHU RAJADURAI, Advocate

PETITION FOR ANTICIPATORY BAIL UNDER SEC 438 OF CR.P.C.

PRAYER : FOR ANTICIPATORY BAIL IN CRIME NO.79/2024 ON THE FILE OF
THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the
respondent police for the alleged offence under Sections 109, 143, 323, 506(ii) and 379
(NH) of IPC, in Crime No.79 of 2024, on the file of the respondent police, seeks



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anticipatory bail.

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2.The case of the prosecution is that the petitioner is a trustee and claimed to be the owner of the property in dispute, in which, the de-facto complainant's father entered into a tenancy agreement with the petitioner trust and after the death of the defacto complainant's father, the defacto complainant has been running the hotel and all of a sudden, the petitioner came to the spot and demolished the entire building. Initially, FIR in Crime No.10 of 2024 was registered against the petitioner on 09.01.2024 and in that case, the petitioner has already obtained anticipatory bail before this court in CrI.O.P.(MD)No.578 of 2023 on 12.01.2024. Again, the petitioner removed the debris, which was already demolished by him, for which, the present case in Crime No.79 of 2024 was registered against him.

3.The learned counsel appearing for the petitioner submitted that the petitioner is a trustee and without impleading the petitioner, the defacto complainant filed a civil suit in O.S.No.62 of 2023 before the District Munsif Court, Paramakudi. The trial Court granted an ex parte interim injunction and the petitioner and other trustee took effective steps to vacate the interim injunction. In the meanwhile, the defacto complainant had occupied the property and there is no piece of evidence available to the petitioner is in occupation. Thereby, in order to develop the property, the petitioner demolished the building and thereby, the defacto complainant made a



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complaint before the respondent police in Crime No.10 of 2024, dated 09.01.2024.

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Thereafter, the petitioner has obtained anticipatory bail before this Court in Crl.O.P (MD)No.578 of 2024, dated 12.01.2024 and subsequently, the debris were removed, for which, the second FIR was registered and the removal of debris is not an offence and the earlier debris were available. If at all, the defacto complainant has any grievance, he has to workout his remedy before the competent civil Court for appropriate remedy including the compensation instead of filing the second complaint before the respondent police. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned counsel for the intervenor submitted that admittedly, the defacto complainant's father is a tenant under the trust and thereafter, he is running the hotel in the name and style of "New Raja Hotel". He would further submit that as against the threat of dispossession, the defacto complainant has already approached the civil Court in O.S.No.62 of 2023 and obtained interim injunction as against the trust and without approaching the civil Court for eviction, the petitioner took the law in his hand and demolished the entire building is contrary to the injunction granted by the trial Court and it is a clear case of contempt. Thereby, the respondent police registered a criminal case against the petitioner, in which, this Court granted anticipatory bail and subsequently without permitting the defacto complainant to put



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up the construction, again the petitioner removed the entire building, including the belongings of the defacto complainant. Hence, he vehemently opposed the grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. side) submitted that earlier the petitioner demolished the building and subsequently, the debris were removed. Thereby, the second FIR was registered against the petitioner and the investigation is in progress. However, he strongly opposed to grant anticipatory bail to the petitioner.

6.Heard the learned counsel on either side.

7.Admittedly, the defacto complainant's father is a tenant of the petitioner trust and the defacto complainant has already approached the civil Court and obtained interim injunction in O.S.No.62 of 2023. After injunction, the petitioner demolished the entire building and thereafter, this Court granted anticipatory bail in Crl.O.P. (MD)No.578 of 2024, dated 12.01.2024 and subsequently the debris were removed, for which, second FIR was registered against the petitioner.

8.Considering the facts that the only remedy available to the petitioner and the defacto complainant is to be approached the civil Court and also considering the allegations levelled against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Accordingly, this Criminal Original Petition is ordered and the petitioner is



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ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Paramakudi, on condition that the petitioner shall execute a bond for a 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 and on further condition that:

(a)if the petitioner failed to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c)the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioner shall not abscond either during investigation or trial;

(f)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial



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Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]; and;

(g)if the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

10.However, without influencing any of the observations made by this Court, the trial Court is directed to decide the matter in the manner known to law.

sd/-
12/03/2024

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/03/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1 THE JUDICIAL MAGISTRATE, PARAMAKUDI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3 THE INSPECTOR OF POLICE, PARAMAKUDI TOWN POLICE STATION
PARAMAKUDI, RAMANATHAPURAM DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1 CC to M/s.B.ARUN, Advocate (SR-3065[I] dated 12/03/2024)

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ORDER
IN

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Date :12/03/2024

RS/GS/SAR-(18.03.2024) 7P 6C

Madurai Bench of Madras High Court is issuing
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