



CRL OP(MD) No.19110 of 2023

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

Tuesday, the Second day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.19110 of 2023

1 JAYARAMAN

2 RENGUKA DEVI

... PETITIONERS / ACCUSED No.1 & 2

Vs

THE INSPECTOR OF POLICE
TIRUPALAI POLICE STATION
MADURAI CITY,
MADURAI.
CRIME NO.312/2023.

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.KATHIRVELU, Senior counsel for
M/S.PALANISAMY.T, Advocate

For Respondent : Mr.SS.MADHAVAN, Govt. Advocate (CrI. Side)

For Intervener : Mr.C.M.ARUMUGAM, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

PRAYER:

FOR ANTICIPATORY BAIL IN CRIME NO.312/2023 ON THE FILE OF THE
RESPONDENT POLICE.



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ORDER: The Court Made the following order :-

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The petitioners, who apprehend arrest at the hands of the respondent Police for the alleged offence under Sections 448, 427, 379 IPC, in Crime No.312 of 2023, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the owner of the property and she sold the property in the year 2020 through a registered sale deed. But, due to dispute between the defacto complainant and the petitioners over sale transaction, the petitioners alleged to have trespassed into the defacto complainant's house, stolen the documents and gold jewels. Hence, the defacto complainant made a complaint before the Law Enforcing Authority and they registered a case against the petitioners.

3. The learned counsel appearing for the petitioners would submit that that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. The petitioners purchased the said property in the year 2020 after payment of sale consideration. Thereafter also, the defacto complainant refused to vacate the premises and when the same was questioned by the petitioners, a false case has been foisted. Hence, they pray for grant of anticipatory bail.



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4. The learned counsel for the intervenor would submit that it is true that the defacto complainant sold the said property in favour of the petitioners in the year 2020. The petitioners entered into the said premises of defacto complainant and stolen the gold jewels, etc. Thereby, a criminal case is made against the petitioners. For the very same property, the defacto complainant filed a suit in O.S.No.250 of 2021 on the file of the Principal District Court, Madurai, to set aside the sale deed already executed by the defacto complainant and for protecting her possession. When the suit is pending, the petitioners attempted to evict the defacto complainant from her premises is illegal. Hence, he vehemently objected to grant anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl.Side) would submit that in the mid night, the petitioners along with ten persons, trespassed into the defacto complainant's house with crowbar and tried to evict the defacto complainant. Hence, he opposed to grant anticipatory bail to the petitioners.

6. Considering the facts and circumstances of the case and also considering the fact the defacto complainant sold the property in the year 2020 in favour of the petitioners and the suit is pending against the petitioners in O.S.No.250 of 2021 on the file of the Principal District Court, Madurai, in respect of the said property, I am inclined to grant anticipatory bail to the petitioners.



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7. Accordingly, this petition is allowed and consequently, connected Miscellaneous Petition is allowed. 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 of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Madurai, on condition that the petitioners shall execute a 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 and on further condition that:

(a)if the petitioners 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 petitioners shall report before the respondent Police as and when required for interrogation;

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



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

(f) 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]*; and;

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

sd/-
02/01/2024

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/01/2024

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

INDU

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3 THE INSPECTOR OF POLICE
TIRUPALAI POLICE STATION
MADURAI CITY,
MADURAI.



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

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-97[I] dated 03/01/2024)

+1 CC to M/s.T.PALANISAMY, Advocate (SR-47[I] dated 03/01/2024)

ORDER

IN

CRL OP(MD) No.19110 of 2023

Date :02/01/2024

SS/VR/SAR- /05/01/2024/6P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023