



CRL OP(MD) No.4956 of 2024

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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1 M.ASHOK

2 A.NANCY

... Petitioners / Accused No.1 and 2

Vs

THE INSPECTOR OF POLICE
SS COLONY POLICE STATION
SS COLONY, MADURAI,
(IN CRIME NO.147/2024.)

... Respondent / Complainant

For Petitioners : M/s.V.Sukumar, Advocate

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl. Side)

For Intervener : Mr.A.Mathan, Advocate

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

PRAYER : FOR ANTICIPATORY BAIL IN CRIME NO.147/2024 ON THE FILE OF THE RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police



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for the alleged offence under Sections 294(b), 323, 506(i) IPC and Section 3 of **WEB COPY** TNPPDL Act, in Crime No.147 of 2024, seek anticipatory bail.

2. It is the case of the prosecution that the property in question belongs to the defacto complainant who had let out the property along with the building to the petitioner's father, namely, Mayan. Since rent was not paid by the said Mayan to the defacto complainant, the de-facto complainant filed eviction petition in R.C.O.P.No.307 of 2014 and towards fixation of fair rent, he filed R.C.O.P.No.275 of 2014 before the Rent Control Authority, which are pending. In the meantime, the first petitioner's father died and after the demise of the 1st petitioner's father, the 1st petitioner took steps to sell the property as if he is the owner of the said property and the 1st petitioner also filed a suit in O.S.No.685 of 2021 against his brother for permanent injunction. As the defacto complainant came to know that the first petitioner and his wife damaged the building and when the defacto complainant questioned the same on 16.03.2024, the petitioners threatened the defacto complainant and they tried to assault the defacto complainant. Aggrieved by the said act of the petitioners, the defacto complainant had filed the present complaint.

3. The learned counsel appearing for the petitioners submit that the petitioners have not committed any offence as alleged by the prosecution. It is the submission of the learned counsel that the said property belongs to the defacto complainant and



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on 09.05.2022, the first petitioner's father and the defacto complainant entered into **WEB COPY** an unregistered lease agreement regarding the said property and the 1st petitioner's father paid a sum of Rs.20,00,000/- as advance amount. Upon receiving the said sum, the defacto complainant handed over possession of the said property to the 1st petitioner's father. From the date of lease agreement, the 1st petitioner's father, and after his demise, the petitioners are in possession and enjoyment of the said property. However, the defacto complainant filed petitions in R.C.O.P.No.307 of 2014 and R.C.O.P.No.275 of 2014 for eviction and to fix fair rent.

4. It is the further submission of the learned counsel that on the basis of the lease agreement, while the petitioners were in possession of the property, due to certain family settlements arrived at, as the brother of the 1st petitioner caused hindrance to the petitioners in enjoying their share of the property, the 1st petitioner filed a suit in O.S.No.685 of 2021 against his brother seeking permanent injunction in respect of the property which is pending. It is the further submission of the learned counsel that the damage to the premises had not been caused either by the petitioners or by the brother of the 1st petitioner. However, for the purpose of defeating the legitimate claim of the petitioners with regard to the return of the amount paid by the petitioner's father towards lease, a false case has been foisted against the petitioners. Hence, he prays for anticipatory bail.



5. Learned counsel for the defacto complainant submits that the defacto complainant is aged about 70 years. The first petitioner's father entered as a tenant in the disputed property in the year 2001 and thereafter, he never paid rent to the defacto complainant. The 1st petitioner not having any title to the property, merely for the purpose of grabbing the property, the first petitioner filed a suit in O.S.No.685 of 2021 for permanent injunction against his brother, in which, the defacto complainant was not shown as a party. In the meantime, the defacto complainant filed petitions in R.C.O.P.No.307 of 2014 and R.C.O.P.No.275 of 2014 for eviction of the petitioners and for fixation of fair rent, which are pending. Hence, he vehemently opposed this petition.

6. Heard the learned counsel for the petitioners, the learned counsel for the intervenor and the learned Government Advocate (Crl. Side) for the law enforcing agency and perused the materials available on record.

7. There is no dispute about the fact that the 1st petitioner's father was a tenant under the defacto complainant by virtue of an alleged lease agreement. It is the claim of the petitioners that the 1st petitioner's father had entered into a lease agreement with the defacto complainant by paying a sum of Rs.20,00,000/- as advance, whereinafter, he was put in possession of the property. Though the petitioners claim to have entered into a lessee with the defacto complainant, yet, no



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documents whatsoever have been produced by the petitioners to substantiate either
WEB COPY

the lease or the payment of the amount to the defacto complainant. In fact, the lease agreement alleged to have been entered into between the first petitioner's father and the defacto complainant also has not been produced before this Court. Further, even before the Rent Control Authority no documents have been filed with regard to the alleged lease, either in the form of payment receipt evidencing the lease or the document in and by which the 1st petitioner's father and the defacto complainant have entered into the lease.

8. To a pointed question from this Court with regard to the materials with the petitioners to show that a lease was entered into and amount, as alleged, had been paid, learned counsel appearing for the petitioners submitted that such documents are not available with the petitioners.

9. Learned Government Advocate produced photographs of the property, which reveals that extensive damage has been caused to the property belonging to the defacto complainant. Though the petitioners claim that they have not caused the damage, yet, it is claimed that the property is in possession of the petitioners and such being the position, the damage to the property has been caused without any right or authority by the petitioners. There is no material placed before this Court to show that the 1st petitioner has any right over the property in question, yet,



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the first petitioner has filed a suit against his brother with regard to the same
WEB COPY property, which clearly shows that it is a clear act of depriving the right of the defacto complainant and for the purpose of grabbing the property.

10. It appears that from 2014 onwards, the petitions in R.C.O.P.No.307 of 2014 and R.C.O.P.No.275 of 2014 are pending and the proceedings have been dragged on under one premise of the other, to defeat the rights of the defacto complainant, who is a septuagenarian. The suit filed by the petitioners would go to show that the same has been filed only for grabbing the property in question.

11. The photographs, which have been produced by the learned Government Advocate, clearly show that at present the said property is not being occupied and there is large scale damage caused to the building. The damage caused to the said building is nothing but an ingenious attempt on the part of the petitioners to change the structure of the building and to let out the same to some third parties. The above act of the petitioners is nothing but an attempt to grab the property and if the petitioners are allowed to damage the property and also to let out the same to third parties, it will unnecessarily create third party interest in the property, which would make it difficult for the defacto complainant to get hold of his property and his interest in the property would be greatly jeopardized.

12. In the aforesaid circumstances, the case on hand clearly reveals that it is



just and necessary for this Court to invoke its inherent jurisdiction and pass orders,
WEB COPY which alone would result in the interest of justice being safeguarded and justice being given to the aggrieved defacto complainant. In view of the above, this Court, invoking its inherent jurisdiction, has to necessarily direct the law enforcing agency to remove the petitioners from the said property so that the interests of the defacto complainant is safeguarded.

13. When this Court expressed its mind with regard to directing the law enforcing agency to evict the petitioners from the property and hand over possession of the property to the defacto complainant, learned counsel appearing for the petitioners submitted that ten days time may be given to the petitioners to hand over the vacant possession of the property to the defacto complainant. Learned counsel further undertook that no third party interests would be created by the petitioners during the said period.

14. Considering the fact that the property is unoccupied, as could be evidenced from the photographs filed before this Court by the learned Government Advocate, this Court is of the considered opinion that there would arise no necessity for the petitioners to vacate the property and hand over vacant possession to the defacto complainant, as already the property is vacant and unoccupied. In the aforesaid circumstances, this Court directs the law enforcing



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agency to forthwith permit the defacto complainant to enter upon the property
WEB COPY and take possession of the same under due acknowledgment to the law enforcing agency. Further, liberty is granted to the defacto complainant as also the petitioners to seek for appropriate relief, if any, with regard to the damages caused to the property/arising from the said property, before the Rent Control Authority in the pending rent control original petitions.

15. While passing the aforesaid order, taking into consideration the nature of offences committed by the petitioners, which are heinous in nature, in and by which the petitioners have tried to grab the property of the defacto complainant, a septuagenarian, who has been forced to run from pillar to post to secure his hard earned property, considering the gravity of the offence, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed with the aforesaid directions.

sd/-
28/03/2024

/ TRUE COPY /

02/04/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU / GLN



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To

WEB COPY

1. The Inspector of Police,
SS Colony Police Station,
SS Colony, Madurai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.SUKUMAR, Advocate (SR-3980[I] dated 28/03/2024)

+1 CC to M/s.A.MATHAN, Advocate (SR-3951[I] dated 28/03/2024)

ORDER
IN
CRL OP(MD) No.4956 of 2024
Date :28/03/2024

ED/ /SAR- (02/04/2024) 9P / 5C

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