

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.1345 of 2023

ORDER :

This Criminal Petition is filed seeking anticipatory bail under Sections 438 of the Code of Criminal Procedure, 1973 ('CrPC') to petitioner/Accused in Crime No.5 of 2023 of Vijayapuram Police Station, registered on 26.01.2023 for the offence under Section 379 IPC.

2. Heard learned counsel for the petitioner/Accused and the learned Assistant Public Prosecutor representing the respondent/State.

3. The allegation against the petitioner is that he committed theft of Eucalyptus trees and teak trees in the land of defacto complainant in survey No.307-4b, 335/2a to an extent of two acres and the value of the property is about Rs.50,000/-. The petitioner contended that he has not committed any offence and that there are family disputes regarding the ancestral property and that the defacto complainant is no other than the paternal uncle of the petitioner and that he has property litigious of the property of defacto complainant.

4. Learned counsel for the petitioner submitted that the complaint does not contain any date of commission of offence and it is only from the earlier order of dismissing his application

for anticipatory bail. It is noticed by him in C.D. part, theft occurred on 20.01.2023. Therefore, the petitioner has filed copies of photographs, rail ticket and tax invoice of hotel to show that he went to Puducherry on 15.01.2023 since morning till evening. Thus, there was no possibility for him to commit the offence.

5. Learned Assistant Public Prosecutor submitted that since notice under Section 41-A Cr.P.C. is proposed to issue as the offence is covered by the said provision, he opposed to grant anticipatory bail to the petitioner.

6. Since it is not a stage to comment on the merits of the case, considering the submission of learned Assistant Public Prosecutor, there is no need to grant anticipatory bail. The police are directed to follow the procedure under Section 41-A Cr.P.C. as represented by the learned Assistant Public Prosecutor. Accordingly, the petition is disposed of.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE B.S.BHANUMATHI

Date : 28-02-2023
SAB