

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. RAJAMANICKAM

CRIMINAL ORIGINAL PETITION No.13635 of 2018

OSMAN ASIF

[PETITIONER / ACCUSED]

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE,
G-1,VEPERY POLICE STATION,
CHENNAI.
CR.NO. NOT KNOWN OF 2018.

[RESPONDENT]

For Petitioner : M/S.N.A.MOHAMED NOOHU Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 420 of IPC, seeks anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioner submitted that already a civil suit is pending between the parties and that being so, the defacto complainant gave a false complaint against the petitioner. He further submitted that the respondent Police without registering a case, compelling the petitioner to appear before him. He further submitted that the petitioner is having apprehension that if he appears before the respondent, he may be arrested and hence he requests to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent has submitted that the defacto complainant has moved this Court and got an order directing the respondent to enquire the matter and if the enquiry reveals any cognizable offence, then the respondent police has to register a case and proceed further in accordance with law and only in compliance of the said order, the respondent has issued summons to the petitioner. But instead of appearing before the respondent, he has filed this petition and hence, she strongly opposed this petition.

5. The defacto complainant viz., Fathima Hanif has filed a petition in CrI.O.P.No.27039 of 2017 requesting this Court to direct the respondent to register a case based on her complaint dated 07.09.2016. This Court has disposed of the said petition and directed the respondent to consider the said complaint and if the complaint discloses any cognizable offence, then a case has to be registered and if any further materials required, then the respondent can conduct a preliminary enquiry. That it does not mean that the respondent has been directed to issue summons to the petitioner.

6. Taking into consideration the submission made by the learned counsel for the petitioner that already a civil suit is pending between the parties and also the fact that so far, the respondent has not registered a case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is 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 Metropolitan Magistrate No.X, Allikulam, Chennai 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioner shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial 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]**.

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

-sd/-
24/05/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.X, ALLIKULAM, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
G-1, VEPERY POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.N.A.MOHAMED NOOHU Advocate on payment of
necessary charges SR NO.9510

CRL OP.13635/2018

Date :24/05/2018

MK:29/05/2018