

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CRL.O.P.No.10072 of 2020

1.Boopathy
2.Abinesh

... Petitioners

Vs.

The State
The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai-600 088.
(Crime No.974 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioners on bail in the event of arrest by the respondent police in Crime No.974 of 2020 pending investigation before the respondent.

For Petitioner : Mr.C.Mohan Raj

For Respondent : Mr.M.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 341, 324 and 506(ii) of IPC in Crime No.974 of 2020, on the file of the respondent police seeks Anticipatory bail.

2.The case of the prosecution as per the defacto complainant Prabhakaran is that the first petitioner is the President of the Flat Owners Association and the defacto complainant is the resident in the apartment. On 23.06.2020, when a visitor had come to meet the defacto complainant, there was a quarrel and the petitioners have abused the defacto complainant and criminally intimidated him and also assaulted him. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the defacto complainant is an Advocate and resident in the flat and that he was having lot of visitors. Since the other occupants objected the same during Covid period, the defacto complainant had abused the first petitioner and his son in respect of which, a complaint was given by the first petitioner and same was registered in Crime No.973 of 2020 against the defacto complainant. As a retaliation, the defacto complainant by using his influence as an Advocate, has given a false complaint based on which, the present case has been registered. He would further submit that initially, the defacto complainant offered to settle the matter. However, now he has gone back on his settlement. Hence, he prays for grant of anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners had intimidated and assaulted the defacto complainant. He would further submit that it is a case and case in counter. However, he opposed for grant of anticipatory bail to the petitioners.

5.Taking into consideration of the facts and submissions made by the learned counsels and the fact there there is a case in counter, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:-

[a] Accordingly, the petitioners are ordered to be released on bail in the event of their arrest by the respondent police or on their appearance, within a period of fifteen days from the date of commencement of Court's normal functioning, before the learned Judicial Magistrate, Alandur, Chennai, on condition that the petitioners shall execute separate 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of one week and thereafter, as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
15/09/2020

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 JUDICIAL MAGISTRATE,
ALANDUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
S 8, ADAMBAKKAM POLICE STATION,
CHENNAI 600 088.

CC to M/S. C.MOHAN RAJ Advocate on payment of necessary charges

CRL OP.10072/2020

Date :15/09/2020