

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10583 of 2020

1.Rahamathulla @ Raghamathullah.N ... Petitioners
2.P.Perumalsamy

Vs.

State ... Respondent
Rep. by the Inspector of Police
K.10, Koyembedu Police Station
Koyembedu Market E Road,
Kaliyamman Koil St
Chennai 600 107.
(Crime No.761 of 2020)

PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.761 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Ms.R.Thendral

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(This case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 22.06.2020 for the offences punishable under Section 294 (b) & 307 IPC, in Crime No.761 of 2020, seek bail.

2.The case of the prosecution as per the defacto complainant Gopinath is that he was the tenant under the 1st petitioner. The 1st petitioner asked the defacto complainant to vacate the premises within three months, due to which, quarrel arose between them. While so, on 22.06.2020, the 1st petitioner abused the wife of the defacto complainant in filthy language, when the same was questioned by the defacto complainant, the 1st petitioner inflicted injuries on the face of the defacto complainant with knife. The 2nd petitioner instigated the 1st petitioner to commit the offence.

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 further submit that there was a quarrel in the house where the defacto complainant resides. The dispute is with regard to landlord and tenant and hence a false case has been foisted against the petitioners. The 2nd petitioner who is stated to have instigated the offence, is the neighbour of the 1st petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the defacto complainant is the tenant under the 1st petitioner and he has given Rs.5 lakhs towards advance. When the 1st petitioner compelled the defacto complainant to vacate the premises, defacto complainant asked him to return the advance amount of Rs.5 lakhs, due to which, the 1st petitioner inflicted injuries to the face of the defacto complainant at the instigation of the 2nd petitioner, the victim sustained injuries and 58 sutures were put on his face.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels, **this Court is inclined to dismiss the bail application of the 1st petitioner.** In so far as the 2nd petitioner is concerned, the allegation against him is that he has only instigated the 1st petitioner to commit the offence, hence, this Court is inclined to grant bail to the 2nd petitioner subject to the following conditions:

(a) Accordingly, the 2nd petitioner is ordered to be released on bail on condition to execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) Thereafter, the 2nd petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Metropolitan Magistrate - V at Egmore, within a period of two weeks after lifting of lock down or the commencement of the Court's normal functioning whichever is earlier, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the 2nd petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

(e) the 2nd petitioner shall not commit any offences of similar nature;

(f) the 2nd petitioner shall not abscond either during investigation or trial;

(g) the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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 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];

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

6. With the above directions, this Criminal Original Petition is ordered in so far as the 2nd petitioner is concerned.

-sd/-
17/07/2020

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 METROPOLITAN MAGISTRATE - V
EGMORE

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
K 10 KOYEMBEDU POLICE STATION,
KOYEMBEDU MARKET E ROAD KALIAMMAN KOVIL ST,
CHENNAI 600107.

5 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL, CHENNAI

6 THE OFFICER INCHARGE
SUB-JAIL, POONAMALLEE
CHENNAI.

CC to M/S.B.DEEPIKA Advocate on payment of necessary charges

CRL OP.10583/2020

Date :17/07/2020