

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10585 of 2020

K.Shivakumar

... Petitioner

Vs.

State rep. by its
The Inspector of Police,
H-3, Maraimalar Nagar Police Station,
Kanchipuram District.
Crime No.3607 of 2020

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant an order of anticipatory bail in the event of his arrest by the respondent in connection with the above Crime No.3607 of 2020 on the file of the respondent herein.

For Petitioner : M/s.K.S.Arivazhagan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through Video Conferencing)

The petitioner who apprehends arrest at the hands of the respondent police for an offence punishable under Sections 294(b), 323, 324 and 506(I) of IPC & Section 4 of Tamil Nadu Prohibition of Harassment of Women Act on the file of the respondent police in Crime No.3607 of 2020, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant, Dr.Nalini is that on 07.07.2020, the first accused who is her husband, quarrelled with her and assaulted her with table bell and caused injuries. At that time, the petitioner who is the brother-in-law of her husband, interfered and abused her in filthy language and also assaulted her with iron keys due to which, she sustained injuries. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner is an Advocate. There was a quarrel between the defacto complainant and her husband/A1. Since, the petitioner is the relative and neighbour, went to the place of occurrence to pacify the issue and that he never committed any offence as alleged by the prosecution. He would further submit that A1 was arrested and subsequently granted bail by the

Court below. He would also submit that the petitioner undertakes not to interfere in the quarrel between the husband and wife i.e. the first accused and the defacto complainant hereafter. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner, who is the brother-in-law of A1, assaulted the defacto complainant with iron keys on her Jaw due to which, she suffered injuries. He would further submit that the defacto complainant has been discharged from the hospital and A1, the husband of the defacto complainant has been released on bail by the Court below. However, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. The learned counsel for the intervener also vehemently opposed stating that the petitioner intervened in the dispute between the husband and wife and abused and assaulted the defacto complainant, who is a doctor. He would also submit that the presence of the petitioner in the place of occurrence, has been recorded in CCTV camera.

6. Taking into consideration the facts and submissions made by the learned counsel and the fact that the injured has been discharged from the hospital and that the main accused has been granted bail by the Court below, this Court is inclined to grant Anticipatory Bail to the petitioner subject to the following 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the Additional Mahila Court (Magistrate level), Chengalpattu, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety, 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 conditions that :

[a] the petitioner 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 petitioner 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 petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 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].

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

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

-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 ADDITIONAL MAHILA COURT
(MAGISTRATE LEVEL), CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
H-3, MARAIMALAR NAGAR POLICE STATION,
KANCHIPURAM DISTRICT.

+1 CC to M/S. K.S.ARIVAZHAGAN Advocate on payment of necessary charges SR.No.5733

WEB COPY

CRL OP.10585/2020

Date :17/07/2020

cs 23/07/2020