

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl. O.P. No. 11213 of 2020

Samuraj Alias Gurusev

.. Petitioner/ Accused

Vs.

The State rep. by its
The Inspector of Police,
Omalur Police Station,
Salem District.
[Crime No. 773 of 2020]

.. Respondent/ Complainant

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest in connection with Crime No. 773 of 2020, pending investigation, on the file of the respondent Police.

For Petitioner : Mr. R. Sankarasubbu

For Respondent : Mr. M. Jothikumar
Additional Public Prosecutor

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for alleged offence punishable under Sections 294 (b), 353, 506(i) of I.P.C., read with Section 3(2)(1) of the Epidemic Diseases (Amendment) Ordinance 2020, in Crime No. 773 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that, on 26.04.2020, at about 11.00 p.m., the petitioner went to the Government Hospital, Omalur for treatment to his toothache without wearing face mask. The duty Doctor and Nurse, who treated the petitioner advised him to wear the mask while coming out from house. Again at 11.30 p.m., the petitioner came to the Hospital, abused the duty Doctor as well as the Nurses and other employees of the Hospital in filthy language and threatened them with dire consequences. On complaint by the Chief Medical Officer, a case has been registered under Sections 294(b), 353, 506 (i) of I.P.C., read with Section 3(2)(1) of the Epidemic Diseases (Amendment) Ordinance, 2020.

3. Mr. R. Sankarasubbu, learned counsel appearing on behalf of the petitioner submitted that the petitioner has earlier filed Crl. O.P. No. 7759 of 2020 for granting anticipatory bail. This Court, by the order dated 21.05.2020, dismissed the said Criminal Original Petition. The petitioner again filed Crl.O.P. No.8582 of 2020 and the same was dismissed by this Court on 12.06.2020 as withdrawn. Now,

the petitioner has come out with the present Criminal Original Petition seeking anticipatory bail. He further submitted that on the date of incident, the petitioner was suffering from severe toothache and due to that, some untoward incident had happened. The learned counsel appearing for the petitioner submitted that the petitioner is tendering unconditional apology for his behaviour and on instructions, further submitted that in order to show his bonafide, the petitioner is ready and willing to deposit a sum of Rs.10,000/- to the Chief Minister's Public Relief Fund towards the fund collected for COVID-19 and prayed for granting anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent Police submitted that during the lock down period due to COVID-19, all the persons were advised to wear face mask. The petitioner without wearing mask, went to the Government Hospital, Omalur for treatment for his toothache. After treatment, the duty Doctor and Hospital staffs advised the petitioner to wear mask. The petitioner abused them in filthy language and threatened them with dire consequences. The Doctors Union have demanded for arrest of the petitioner, investigation is pending and vehemently opposed for granting anticipatory bail to the petitioner.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent Police and perused the materials available on record.

6. Considering the date of incident and the unconditional apology tendered by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions. Accordingly, the petitioner is ordered to be released on bail, in the event of his arrest or on his appearance within 15 days from the date of receipt of a copy of this order before the Court of the Judicial Magistrate, Omalur, 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 the Police officer who intends to arrest or to the satisfaction of the Judicial Magistrate, Omalur, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that :

(i) the petitioner and the sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.

(ii) the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) by Demand Draft in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund (CMPRF), Finance Department, Government of Tamil Nadu, Secretariat, Chennai 600 009 or by Electronic Clearing System (ECS) to the Savings Bank Account No. 11720 10000 00070 of CMPRF to the Indian Overseas Bank, Secretariat Branch, Chennai 600 009 bearing IFSC Code IOBA0001172 and CMPRF PAN - AAAGC0038F, towards the fund collected for COVID-19, within a period of one week from the date of receipt of a copy of this order.

(iii) the petitioner shall report before the respondent Police daily at 10.30 a.m, until further orders.

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

(v) On breach of any of the aforesaid conditions, the concerned 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, reported in 2005 AIR SCW 5560 (P.K. Shaji vs. State of Kerala) and

(vi) If the petitioner thereafter absconds, a fresh First Information Report shall be registered, under Section 229A of I.P.C.

7. Accordingly, this Criminal Original Petition is allowed.

-sd/-

06/08/2020

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, सत्यमेव जयते
OMALUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
OMALUR POLICE STATION,
SALEM DISTRICT.

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4 THE JOINT SECRETARY & TREASURER,
CHIEF MINISTER'S PUBLIC RELIEF FUND (CMPRF),
FINANCE DEPARTMENT, GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI 600 009 OR BY
ELECTRONIC CLEARING SYSTEM (ECS) TO THE
SAVINGS BANK ACCOUNT NO. 11720 10000 00070 OF CMPRF TO
THE INDIAN OVERSEAS BANK, SECRETARIAT BRANCH,
CHENNAI 600 009 BEARING IFSC CODE IOBA0001172
AND CMPRF PAN - AAAGC0038F,

CC to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges

CRL OP.11213/2020

Date :06/08/2020

RVR 16/09/2020



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