

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2020

CORAM :

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

CrI.O.P.No.10882 of 2020

1.Nagarajan @ Manoj
2.Balaji

... Petitioners

Vs.

State rep. by its
The Inspector of Police,
Poonamallee Police Station,
Chennai-600 056.
Crime No.681 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of arrest in connection with Crime No.681 of 2020, pending investigation, on the file of the Inspector of Police, Poonamallee.

For Petitioners : Mr.R.Sankarasubbu

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

O R D E R

(The case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence punishable under sections 147, 148, 341, 294(b), 324 and 307 IPC in Crime No. 681 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Philip Sudhakar is that due to business rivalry, on 02.07.2020, the first petitioner along his associates, waylaid the defacto complainant, his brother and friend and by abusing with filthy language, attacked them with iron rods on their head and body resulting in the defacto complainant, his brother and friend sustaining head injury and fracture in the hands. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case due to business rivalry. He would further submit that the victims suffered only minor injuries and that the petitioners have

paid Rs.50,000/- for their hospital expenses and the matter is also been compromised between the parties. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would vehemently oppose to grant anticipatory bail to the petitioners stating that the first petitioner is a notorious element and history sheeter against whom there are four previous cases pending before the Poonamallee Police Station. He would submit that due to business rivalry, the petitioners along with other accused, waylaid the defacto complainant, his brother and friend and assaulted them indiscriminately with iron rods resulting in the defacto complainant, his brother and friend sustaining serious injuries and they are hospitalised. He would further submit that the investigation is pending.

5. Taking into account the antecedents of the first petitioner, I am not inclined to grant anticipatory bail to the first petitioner. Accordingly this Criminal Original Petition is dismissed insofar first petitioner is concerned.

6. Considering the facts and circumstances of the case and the fact that the second petitioner did not assault anyone and there is no previous case against him, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

7. Accordingly, the second petitioner is ordered to be released on bail in the event of his arrest by the respondent police or on his appearance, within a period of fifteen days from lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the Judicial Magistrate -II, Poonamallee, on condition that the second 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 learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the second 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 second petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter every monday at 10.30 a.m., until further orders.

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

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

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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
28/07/2020

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 JUDICIAL MAGISTRATE,
NO.II, POONAMALLEE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
POONAMALLEE POLICE STATION,
CHENNAI-600 056.

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

WEB COPY

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Date :28/07/2020

RD 27/08/2020