

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.10953 of 2020

1. Udhaykumar
2. Madhu

... Petitioners

Vs.

The State rep by
The Inspector of Police,
Mathigiri Police station,
Krishnagiri District,
Crime No.409 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their
arrest in Crime No.409 of 2020 on the file of the respondent police.

For Petitioners : Mr.R.Thirumoorthy

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

O R D E R

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 452, 307 of IPC @ Sections 147, 148, 294(b), 457, 307 IPC in Crime No.409 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is as per the defacto complainant is that the petitioners and his friends used to do bike racing in the village in a rash and negligent manner. When it was questioned by the defacto complainant's husband, the petitioners and the other accused trespassed into the house of the defacto complainant and in an indiscriminating manner caused cut injuries to the defacto complainant's husband and when they raised alarm, the villagers had came there and the accused escaped from the scene of occurrence. Hence, the complaint.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent and since there was previous enmity between the family of the petitioners and the family of the defacto complainant, a false case has been foisted against them. He further submitted that this is the second anticipatory bail petition and the earlier petition was dismissed on the ground that the victim was taking treatment in the hospital. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the accused were conducting bike race in the village and when it was questioned by the defacto complainant's husband, the petitioners armed with deadly weapons, trespassed into the house of the defacto complainant and indiscriminately caused cut injuries to the defacto complainant's husband, resulting in him sustaining injuries. Thereafter, he was admitted in hospital and after two days he was discharged. However, taking into consideration the serious nature of the offence, he opposed for grant of anticipatory bail to the petitioners.

5. At this juncture, the learned counsel for the petitioners submitted that he is not pressing the application in respect of the first petitioner and seeks permission of this court to withdraw the petition in respect of the first petitioner. He further submitted that the name of the second petitioner does not find place in the FIR and nothing has been stated as if the second petitioner entered into the house of the defacto complainant and attacked her husband. However, he has been falsely implicated in the case since, he happens to be the friend of the first petitioner.

6. In view of the above submission, this petition is dismissed as withdrawn insofar as the first petitioner is concerned.

7. Taking into consideration the facts and submissions of the learned Counsel and the fact that the victim has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the second petitioner subject to the following conditions;

7. Accordingly, the second petitioner is directed to be released on bail in the event of arrest or on their 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 learned Judicial Magistrate No.II, Hosur, on condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two 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 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 daily 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.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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.

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

-sd/-
23/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, HOSUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

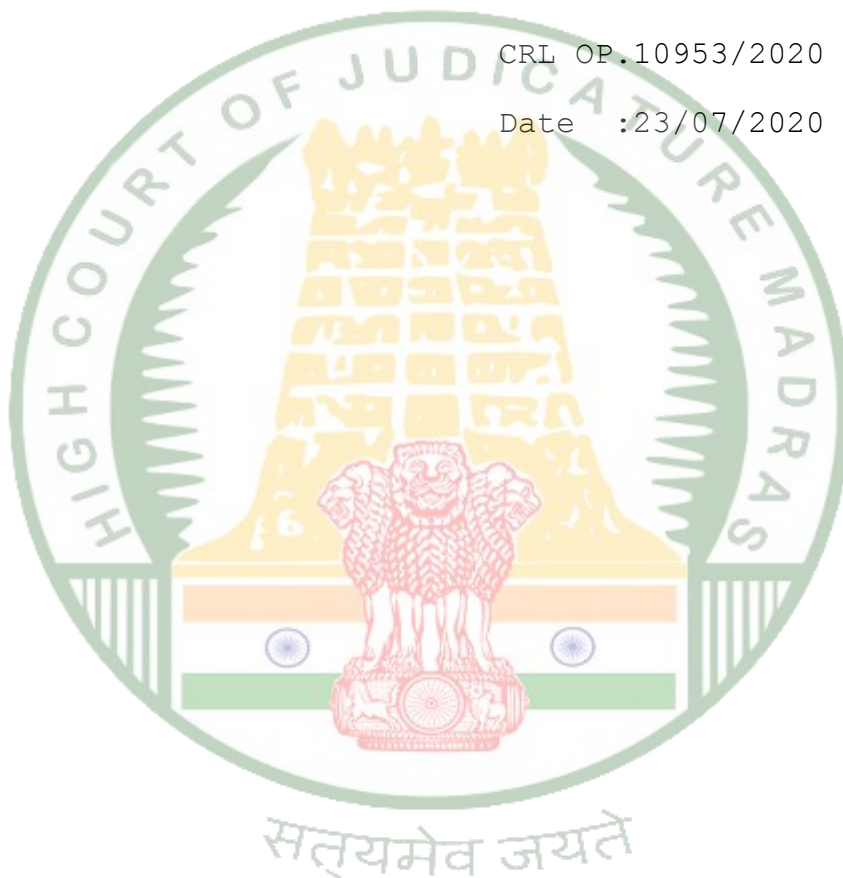
3 THE INSPECTOR OF POLICE,
MATHIGIRI POLICE STATION,
KRISHNAGIRI DISTRICT.

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

CRL OP.10953/2020

Date :23/07/2020

cs 21/08/2020



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