

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.No.11389 of 2020

1. Manoj Kumar
2. Vijaya @ Divya
3. Balamurugan
4. Kaliannan

... Petitioners

Vs.

The State Represented by,
The Inspector of Police,
Paramathy Police Station,
Namakkal District.
Crime No.444 of 2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of arrest in Connection with the Crime No.444 of 2020 pending on the file of the respondent police.

For Petitioners : Mr. B. Vasudevan

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

ORDER

(This case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 323, 324 and 506(2) of IPC in Crime No.444 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Thangammal is that due to a pathway dispute between the defacto complainant and the petitioners, there was a wordy quarrel between them during which, the petitioners have abused and attacked the defacto complainant with stick, hand and stone and thereby the defacto complainant sustained severe injuries on his head and back. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that there is a case in counter in Crime No.445 of 2020 and that a false case has been foisted against them. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the defacto complainant and the petitioners are neighbours and that there was a wordy quarrel between them in respect of pathway during which, the petitioners abused and assaulted the defacto complainant with stick, hand and stone resulting in him sustaining injuries on the back side of his head and would submit that the injured has been discharged from the hospital. He further submitted that insofar as the second and third petitioners are concerned, there are two previous cases pending against them. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. At this juncture, the learned Counsel for the petitioners submitted that the said previous cases are of the year 2014 and 2015. The earlier case which was registered during the year 2014 in Crime No.33 of 2014 was deferred as mistake of fact and the other case registered during the year 2015 in Crime No.216 of 2015 ended in acquittal.

6. Taking into consideration the facts and submissions of the learned Counsel and the fact that the victim has been discharged from the hospital and also that there is a case in counter, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. Accordingly, the petitioners are 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, Paramathy, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, 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 petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

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

[d] the petitioners 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 petitioners 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].

[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/-

31/07/2020

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,
PARAMATHY.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
PARAMATHY POLICE STATION,
NAMAKKAL DISTRICT.

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

CRL OP.11389/2020

Date :31/07/2020

cs 08/09/2020