

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2020

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P. No.11419 of 2020

1. R.Lakshmipathi
2. M.Suresh
3. M.Gnanasekaran
4. R.Thulasitharan
5. K.Gurunathan

... Petitioners

versus

State

Represented by the Inspector of Police,
Thiruporur Police Station,
Thiruporur.
(Crime No.1628 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Crl.P.C. praying to enlarge the petitioners on bail in the event of their arrest in Crime No.1628 of 2020 on the file of the respondent.

For Petitioners: Mr.R.Shunmugasundaram
Senior Counsel for
Mr.M.Babu Muthu Meeran

For Respondent : Mrs.Kritika Kamal,
Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed for grant of Anticipatory bail in respect of Crime No.1628 of 2020 for an offence under Section 147, 148, 341, 323, 307 of I.P.C. and 25(1A) of Arms Act, 1959.

2. The learned senior counsel appearing for the petitioners submitted that the nature of occurrence is the result of a group clash. In fact, the 1st petitioner was seriously injured by the other group. Only to protect and save the life, he has opened the fire with his Gun to disperse the crowd. Hence, three F.I.R.s have been registered. The opposite party is the aggressor and A2 was already granted bail by this court considering all the facts and none of the opposite parties are sustained any injury. Whereas, the petitioner has sustained serious injury. A2, son of A1 was already examined by

the police and custodial interrogation was also over. The alleged material objects also seized. His submission is that this case is foisted in a political motive, since A2 is son of A1, who is member of Legislative Assembly and the prosecution has also examined some of the witnesses and investigation has been substantially completed. No further interrogation is required in this matter. Hence, he prayed for grant of anticipatory bail.

3. The learned Government Advocate Ms. Kritika Kamal has filed a counter stating that there are three F.I.R.s registered and A-2 had opened fire with his pistol, as a result, one of the passer-by also sustained injury. Therefore, the Arms Act has been invoked and explosive substances was also seized during the house search. Therefore, the custodial interrogation is required to find out the nature of explosive substances and its origin. Hence, she opposed to grant anticipatory bail.

4. I have perused entire materials. In the same crime number, A-2 son of A1 was released on bail by this court by an order dated 06.08.2020. This Court had passed a detailed order considering various aspects as to how the occurrence has been emanated in this matter. The factual aspect recorded by this Court in its order dated 06.08.2020 makes it very clear that there are three F.I.R.s registered on 11.07.2020 in respect of commotion took place in the village, where, one of the defacto complainants in the case, one Kumar said to be a real estate men, brought 50 henchmen along with JCB machineries to lay road forcibly on the land not belonging to him. However, the opposite group started unleashing violence against Lakshmipathi and his men. As a result, Lakshmipathi sustained cut injury in the hip, besides one Gurunathan and Manogaran also sustained injuries on head and other parts of the body. As Lakshmipathi, father of the first petitioner in both petitions fell down in such clash, in order to prevent the further attack being made on his father, the first petitioner opened the fire with his pistol to disperse the crowd. As a result, one of the passer-by, namely, Srinivasan, who is the defacto complainant in Crime No.1626 of 2020 sustained some pellet injuries on the back. Immediately, he was rushed to the hospital, it appears that he sustained minor injuries. Based on his F.I.R., Crime No.1626 of 2020 came to be registered on 11.09.2020.

5. The defacto complainant in Crime No.1626 of 2020 is a passer-by in the village, who sustained some pellet injuries has lodged a complaint and based on the F.I.R., offence under Section 308 and 25 (1-A) of Arms Act has been originally registered against the son of first petitioner and also the F.I.R. in Crime No.1628 of 2020 makes it clear that the commotion took place between two groups, the accused party Kumar said to be the defacto complainant over the pathway leading to the land acquired by the said Kumar and he appears to be brought huge machineries and 50 henchmen, that was the reason, it leads to serious altercation in respect of which, A1, A5 and one Manogaran sustained injuries. Whereas, the other side has not sustained any injury. This F.I.R. came to be filed after later point of time, after two F.I.R.s have been registered in this regard.

6. Considering the above aspects, this Court is of the view that only the defacto complainant appears to be an aggressor in this matter. This Court has elaborately after considering the case diary granted bail to A2. The case diary perused by this court in the earlier occasion indicates that the prosecution has examined as many as 26 witnesses substantially and defacto complainant one Srinivasan, who said to have sustained pellet injury in a gunshot by A-1, who is also discharged for minor injuries and the main accused A2, who is a sitting M.L.A., who was also interrogated during his custody and all the alleged seizures are taken place from the house of A1 and A2. Therefore, this Court is of the view that this is a fit case, where the petitioners are granted anticipatory bail. Accordingly, there were granted anticipatory bail with the following conditions :-

(a) The petitioners are ordered to be released on bail in the event of their arrest or surrender (within 10 days), on condition to execute a bond for Rs.10,000/- with two sureties each for like sum before the learned Judicial Magistrate No.1, Chengalpattu;

(b) the sureties shall affix their photographs and left thumb impression in the surety bond and the learned concerned Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

At this stage, the learned Senior Counsel has also submitted that the first petitioner in this application willing to pay some amount towards welfare of the patient.

(c) Accordingly, the first petitioner is directed to deposit a sum of Rs.25,000/- to "Cancer Institute. WIA, No.18/36, Sardar Patel Road, IIT Campus, Adyar, Chennai-600 036" and for such deposit, he has to file a proof before this court. In the event of non-payment, the bail granted by this Court shall stand cancelled automatically, without reference to any further orders.

(d) the petitioners shall report before the Chenglepet town Police Station regularly until further orders;

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) On breach of any of the aforesaid conditions, the learned Judicial 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]

-sd/-
24/08/2020

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,
NO.I, CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUPORUR POLICE STATION,
THIRUPORUR.

5 CANCER INSTITUTE. WIA,
NO.18/36, SARDAR PATEL ROAD,
IIT CAMPUS, ADYAR, CHENNAI-600 036.

CC to M.BABU MUTHU MEERAN Advocate on payment of necessary charges

CRL OP.11419/2020

Date :24/08/2020

cs 28/08/2020