

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.11842 of 2020

Rony Joseph

... Petitioner

Vs.

The State rep by
The Inspector of Police,
K-3, Aminjikarai police station,
Chennai.
Cr.No.741 of 2019

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest in Crime No. 741 of 2019 on the file of the respondent police.

For Petitioner : Mr.S.Santosh

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences publishable under Sections 324 and 506 (II) IPC, in Crime No.741 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Prabina W/o Sheril is that on 05.11.2019, while she was walking near the railway colony, 2nd street, Panimalar College, along with her sister in law and her children, the accused had come in a two wheeler and abused her in filthy language saying that she should not demand money and inflicted injuries on her neck and the defacto complainant called her sister in law and taken an autorickshaw and came back home. Hence the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent and the case has been fabricated in order to harass the petitioner. He would submit that the petitioner's sister Sonia and the husband of the defacto complainant One Sheril were friends earlier. During that time, they had

financial transactions. Later, the petitioner's sister Sonia got married and was living with her husband in Kerala. Thereafter, due to the intervention of Sheril (husband of the defacto complainant) in the matrimonial affairs, the relationship between the petitioner's sister and his brother-in-law got strained and his brother -in-law deserted his sister. While so, the said Sheril got married to the defacto complainant and settled at Chennai. Even thereafter, the said Sheril (husband of the defacto complainant) had intervened in the life of the petitioner's sister and had demanded to repay the money which he had spent for her. Due to which, there was a dispute between them. Meanwhile, the husband of the defacto complainant had gone to the petitioner's sister's house at Kerala and harassed and assaulted her. In respect of a complaint given by the petitioner's sister, a case was registered against the defacto complainant's husband on 03.09.2019 for offences under Sections 324, 341 and 308 IPC. Therefore, in order to wreck vengeance, the husband of the defacto complainant instigated the defacto complainant to give a false complaint against the petitioner before the Ambathur Police. In that complaint, the defacto complainant had stated that on 30.09.2019, the petitioner had trespassed into her house and caused a cut injury in her neck and threatened her due to a money dispute. In respect of the complaint, enquiry was conducted in C.S.R.No.1701 of 2019 and that the petitioner had attended the enquiry. Later, on 14.11.2019, the case was registered in Crime No.2247 of 2019 and the petitioner was arrested and remanded to judicial custody on 23.11.2019. The petitioner was in judicial custody for 5 days and later he was enlarged on bail by the learned Judicial Magistrate, Ambathur, on 27.11.2019. Once again, in order to put pressure on the petitioner and his sister to withdraw the case pending against the husband of the defacto complainant, on the file of Kerala Police, the defacto complainant by using her influence, has given a false complaint before the Aminjikarai Police Station as if, the petitioner assaulted her on 05.11.2019. But, strangely in respect of the alleged incident said to have been taken place on 05.11.2019, the defacto complainant had given a complaint only on 07.11.2019 at 23.30 hours. The fact remains that the second complaint was given under the influence of the respondent police can be found out from the fact that though the name of the petitioner is very much stated in the complaint, column No.7 of the FIR was left blank. Further, though the case was stated to be registered on 07.11.2019, the FIR has reached the Court only on 03.12.2019. The defacto complainant was well aware that the petitioner was arrested in the previous case in Crime No.2247 of 2019 registered by the Ambathur Police on 14.11.2019. Whereas, neither the defacto complainant, nor the present respondent / Aminjikarai Police, took any steps to formally arrest the petitioner who was in remand at the relevant time in connection with Crime No.2247 of 2019.

3.1. The learned Counsel for the petitioner would submit that when the earlier application for anticipatory bail had come before this Court in CrI.O.P.No.32644 of 2019, this Court taking in to consideration the photographs shown by the respondent police with regard to injuries found on the neck of the defacto complainant, dismissed the application by order dated 10.01.2020. The fact

remains that the alleged injuries were stated to have been suffered in the earlier case registered by the Ambathur Police. Now based on the present FIR, the petitioner and his family members are hounded by the respondent police under the influence of the defacto complainant and her husband and now pressure is put on the sister of the petitioner to withdraw the complaint filed by her against the husband of the defacto complainant before the Kerala Police. He would submit that the petitioner was working as a Software Developer in L & T Infotech, Chennai and due to the case registered against him, he has lost his job. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would vehemently oppose stating that earlier on 30.09.2019, the petitioner trespassed into the house of the defacto complainant and inflicted injuries with knife on her neck. Originally the complaint was given before the T1 Ambathur Police Station on 01.10.2019 and preliminary enquiry was conducted in C.S.R.No.1701 of 2019 and the petitioner appeared for enquiry. On finding the allegations to be true, the case was registered on 14.11.2019 and the petitioner was earlier arrested on 23.11.2019 and thereafter, he was enlarged on bail by the learned Judicial Magistrate, Ambathur in CrI.M.P.No.5406 of 2019 on 27.11.2019. He would submit that while the enquiry was going on, the petitioner had again followed the defacto complainant when she was going to her mother-in-law's house within the jurisdiction of Aminjikarai Police Station and had assaulted the defacto complainant with knife and had run away. Hence, the present complaint has been registered before the respondent police. He would submit that the petitioner is a habitual offender and he has also threatened the defacto complainant and her husband and a case is also registered against the petitioner before Kerala police. Hence, he vehemently opposed for grant of bail to the petitioner.

5. At this juncture, the learned Counsel for the petitioner would submit that the defacto complainant has not suffered any injury at all and that in the complaint given before the present respondent, she has not stated where the petitioner had inflicted the injury. Further, though the case is stated to have been registered on 07.11.2019, the present respondent despite having knowledge that the petitioner was in judicial custody between 23.11.2019 to 27.11.2019, did not take any steps to arrest him in this case. It is purely a case registered in order to put pressure on the petitioner and his sister to withdraw the case pending against the defacto complainant's husband before the Kerala police.

6. Heard both sides and perused the materials on record and the FIR in Crime No.2247 of 2019 registered by the T1 Ambathur Police and the present FIR in Crime No.741 of 2019 registered by the respondent Police.

7. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

8. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his 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, Ambattur on condition that the petitioner shall execute a separate 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 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 petitioner shall report before the respondent daily at 10.30 a.m. until further orders.**

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

[d] the 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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

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21/08/2020

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,
AMBATTUR.

2 THE STATE REP. BY INSPECTOR
OF POLICE, K-3, AMINJIKARAI POLICE STATION,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. S.SANTOSH Advocate on payment of necessary
charges SR.No 6002

CRL OP.11842/2020

Date :21/08/2020

MN-31/08/2020



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